

**RESULTS
STATE PRIMARY**

September 14, 2010

In accordance with the Warrant, the polls were opened at 7:00 a.m. and closed at 8:00 p.m. The voters cast their ballots in their respective precincts. The results were as follows:

DEMOCRATIC PRIMARY

	1	2	3	4	5	6	7	8	9	10	TOTAL
GOVERNOR											
										12	
DEVAL L. PATRICK	134	258	108	115	181	319	260	428	222	7	2152
Jill Stein*	0	5	3	1	3	3	4	1	2	1	23
ALL OTHERS	0	0	1	2	0	2	0	1	1	1	8
BLANK	15	42	17	19	32	40	51	68	28	15	327
										14	
TOTAL	149	305	129	137	216	364	315	498	253	4	2510
LIEUTENANT GOVERNOR											
										11	
TIMOTHY P. MURRAY	117	241	99	94	160	299	245	391	190	1	1947
WRITE-INS	0	0	0	0	0	0	0	0	0	0	0
BLANK	32	64	30	43	56	65	70	107	63	33	563
										14	
TOTAL	149	305	129	137	216	364	315	498	253	4	2510
ATTORNEY GENERAL											
										10	
MARTHA COAKLEY	113	236	98	99	138	272	238	358	186	0	1838
WRITE-INS	1	2	1	1	3	6	2	2	1	1	20
BLANK	35	67	30	37	75	86	75	138	66	43	652
										14	
TOTAL	149	305	129	137	216	364	315	498	253	4	2510
SECRETARY OF STATE											
										10	
WILLIAM FRANCIS GALVIN	114	224	97	92	146	270	230	361	177	2	1813
WRITE-INS	0	0	0	0	0	1	0	0	1	0	2
BLANK	35	81	32	45	70	93	85	137	75	42	695
										14	
TOTAL	149	305	129	137	216	364	315	498	253	4	2510

TREASURER

		16				22		28			
STEVEN GROSSMAN	77	9	77	66	111	5	162	6	136	77	1386
STEPHEN J. MURPHY	24	40	18	17	31	44	62	51	33	23	343
WRITE-INS	0	1	0	0	1	0	1	0	0	0	3
								16			
BLANK	48	95	34	54	73	95	90	1	84	44	778
	14	30		13		36		49		14	
TOTAL	9	5	129	7	216	4	315	8	253	4	2510

AUDITOR

					11	21			14		
SUZANNE M. BUMP	82	153	75	76	1	2	181	297	6	97	1430
GUY WILLIAM GLODIS	15	47	26	8	19	49	44	70	34	9	321
MIKE LAKE	12	21	4	7	15	26	18	25	13	11	152
WRITE-INS	0	1	1	0	0	0	0	0	0	0	2
BLANK	40	83	23	46	71	77	72	106	60	27	605
			12		21	36			25	14	
TOTAL	149	305	9	137	6	4	315	498	3	4	2510

REPRESENTATIVE IN CONGRESS

			10		17	32			22	12	
JOHN W. OLVER	127	254	9	116	6	5	267	420	1	4	2139
WRITE-INS	0	1	1	0	0	1	1	5	1	0	10
BLANK	22	50	19	21	40	38	47	73	31	20	361
			12		21	36			25	14	
TOTAL	149	305	9	137	6	4	315	498	3	4	2510

COUNCILLOR

					12	23			15		
THOMAS T. MERRIGAN	100	186	83	74	4	8	214	305	5	87	1566
WRITE-INS	0	1	1	0	0	0	0	0	1	0	3
						12					
BLANK	49	118	45	63	92	6	101	193	97	57	940
			12		21	36			25	14	
TOTAL	149	305	9	137	6	4	315	498	3	4	2510

SENATOR IN GENERAL COURT

			11		18	32			22	12	
STANLEY C. ROSENBERG	133	258	1	117	0	5	267	426	6	3	2166
WRITE-INS	0	0	0	0	0	0	0	2	1	0	3
BLANK	16	47	18	20	36	39	48	70	26	21	341
			12		21	36			25	14	
TOTAL	149	305	9	137	6	4	315	498	3	4	2510

REPRESENTATIVE IN GENERAL COURT

ELLEN STORY	135	257	112	120	174	327	263	420	217	127	2152
WRITE-INS	0	0	0	0	0	1	0	1	3	0	5
BLANK	14	48	17	17	42	36	52	77	33	17	353
TOTAL	149	305	129	137	216	364	315	498	253	144	2510

DISTRICT ATTORNEY

MICHAEL A. CAHILLANE	16	53	11	18	41	61	62	85	38	19	404
	13	25		11	16	29		41	20	12	
DAVID E. SULLIVAN	3	0	117	7	7	9	251	0	9	4	2076
WRITE-INS	0	0	0	0	0	0	0	0	0	0	0
BLANK	0	2	1	2	8	4	2	3	6	1	29
TOTAL	14	30		13	21	36		49	25	14	2510

SHERIFF

	10	21		10	14	27		36	19	11	
ROBERT J. GARVEY	8	9	101	3	7	6	235	8	3	0	1860
WRITE-INS	0	0	0	0	0	0	0	0	2	0	2
								13			
BLANK	41	86	28	34	69	88	80	0	58	34	648
TOTAL	14	30		13	21	36		49	25	14	2510

REPUBLICAN PARTY

	1	2	3	4	5	6	7	8	9	10	TOTAL
GOVERNOR											
CHARLES D. BAKER	6	5	4	4	5	12	7	27	8	2	80
WRITE-INS	0	0	0	1	0	0	0	0	0	0	1
BLANK	0	3	0	1	4	4	2	4	0	1	19
TOTAL	6	8	4	6	9	16	9	31	8	3	100
LIEUTENANT GOVERNOR											
RICHARD R. TISEI	6	8	4	3	7	11	6	25	7	2	79
WRITE-INS	0	0	0	1	0	0	0	0	0	0	1
BLANK	0	0	0	2	2	5	3	6	1	1	20
TOTAL	6	8	4	6	9	16	9	31	8	3	100
ATTORNEY GENERAL											
James P. McKenna*	0	1	0	2	0	2	0	1	1	0	7
WRITE-INS	2	0	1	0	3	3	0	7	1	1	18
BLANK	4	7	3	4	6	11	9	23	6	2	75
TOTAL	6	8	4	6	9	16	9	31	8	3	100
SECRETARY OF STATE											
WILLIAM C. CAMPBELL	6	5	4	3	8	9	5	25	8	2	75
WRITE-INS	0	0	0	0	0	1	0	0	0	0	1
BLANK	0	3	0	3	1	6	4	6	0	1	24
TOTAL	6	8	4	6	9	16	9	31	8	3	100
TREASURER											
KARYN E. POLITO	6	5	4	3	6	10	4	25	8	2	73
WRITE-INS	0	0	0	0	0	1	0	0	0	0	1
BLANK	0	3	0	3	3	5	5	6	0	1	26
TOTAL	6	8	4	6	9	16	9	31	8	3	100

	1	2	3	4	5	6	7	8	9	10	TOTAL
AUDITOR											
MARY Z. CONNAUGHTON	1	7	4	2	5	13	3	24	7	3	69
KAMAL JAIN	1	0	0	1	1	0	4	3	1	0	11
WRITE-INS	0	0	0	0	0	0	0	0	0	0	0
BLANK	4	1	0	3	3	3	2	4	0	0	20
TOTAL	6	8	4	6	9	16	9	31	8	3	100
REPRESENTATIVE IN CONGRESS											
WILLIAM L. GUNN, JR.	6	5	4	4	5	9	7	24	8	2	74
WRITE-INS	0	0	0	0	0	1	0	0	0	0	1
BLANK	0	3	0	2	4	6	2	7	0	1	25
TOTAL	6	8	4	6	9	16	9	31	8	3	100
COUNCILLOR											
MICHAEL FRANCO	6	5	4	4	6	10	6	21	7	2	71
WRITE-INS	0	0	0	0	1	0	0	0	0	0	1
BLANK	0	3	0	2	2	6	3	10	1	1	28
TOTAL	6	8	4	6	9	16	9	31	8	3	100
SENATOR IN GENERAL COURT											
WRITE-INS	0	1	2	0	2	1	0	6	0	0	12
BLANK	6	7	2	6	7	15	9	25	8	3	88
TOTAL	6	8	4	6	9	16	9	31	8	3	100
REPRESENTATIVE IN GENERAL COURT											
DANIEL M. SANDELL	5	6	4	4	6	10	5	24	6	2	72
WRITE-INS	0	0	0	0	0	1	0	0	0	0	1
BLANK	1	2	0	2	3	5	4	7	2	1	27
TOTAL	6	8	4	6	9	16	9	31	8	3	100
DISTRICT ATTORNEY											
WRITE-INS	0	0	1	0	1	1	1	6	1	0	11
BLANK	6	8	3	6	8	15	8	25	7	3	89
TOTAL	6	8	4	6	9	16	9	31	8	3	100
SHERIFF											
STEPHEN ANTHONY CHO-	5	6	4	4	5	9	5	23	7	2	70
WRITE-INS	0	0	0	0	0	1	0	1	0	0	2
BLANK	1	2	0	2	4	6	4	7	1	1	28
TOTAL	6	8	4	6	9	16	9	31	8	3	100

LIBERTARIAN

BLANK	0	0	0	0	0	0	1	0	1	0	2
TOTAL	0	0	0	0	0	0	1	0	3	0	4

SECRETARY OF STATE

WRITE-INS	0	0	0	0	0	0	0	0	2	0	2
BLANK	0	0	0	0	0	0	1	0	1	0	2
TOTAL	0	0	0	0	0	0	1	0	3	0	4

TREASURER

WRITE-INS	0	0	0	0	0	0	1	0	2	0	3
BLANK	0	0	0	0	0	0	0	0	1	0	1
TOTAL	0	0	0	0	0	0	1	0	3	0	4

AUDITOR

WRITE-INS	0	0	0	0	0	0	0	0	2	0	2
BLANK	0	0	0	0	0	0	1	0	1	0	2
TOTAL	0	0	0	0	0	0	1	0	3	0	4

REPRESENTATIVE IN CONGRESS

WRITE-INS	0	0	0	0	0	0	0	0	2	0	2
BLANK	0	0	0	0	0	0	1	0	1	0	2
TOTAL	0	0	0	0	0	0	1	0	3	0	4

COUNCILLOR

WRITE-INS	0	0	0	0	0	0	0	0	2	0	2
BLANK	0	0	0	0	0	0	1	0	1	0	2
TOTAL	0	0	0	0	0	0	1	0	3	0	4

SENATOR IN GENERAL COURT

WRITE-INS	0	0	0	0	0	0	0	0	3	0	3
BLANK	0	0	0	0	0	0	1	0	0	0	1
TOTAL	0	0	0	0	0	0	1	0	3	0	4

REPRESENTATIVE IN GENERAL COURT

WRITE-INS	0	0	0	0	0	0	0	0	2	0	2
BLANK	0	0	0	0	0	0	1	0	1	0	2
TOTAL	0	0	0	0	0	0	1	0	3	0	4

DISTRICT ATTORNEY

WRITE-INS	0	0	0	0	0	0	1	0	2	0	3
BLANK	0	0	0	0	0	0	0	0	1	0	1
TOTAL	0	0	0	0	0	0	1	0	3	0	4

SHERIFF

WRITE-INS	0	0	0	0	0	0	0	0	1	0	1
BLANK	0	0	0	0	0	0	1	0	2	0	3
TOTAL	0	0	0	0	0	0	1	0	3	0	4

*Write-In

The polls were closed at 8:00 p.m. as directed in the Warrant. 2,615 ballots were cast, representing 15.94% of the 16,408 voters eligible to vote.

Attest:

Sandra J. Burgess

Town Clerk

**RESULTS
STATE ELECTION
November 2, 2010**

In accordance with the Warrant, the polls were opened at 7:00 a.m. and closed at 8:00 p.m. The voters cast their ballots in their respective precincts. The results are as follows:

	1	2	3	4	5	6	7	8	9	10	TOTAL
GOVERNOR AND LIEUTENANT GOVERNOR											
PATRICK and MURRAY	400	755	369	343	580	937	727	1187	651	335	6284
BAKER and TISEI	48	117	50	47	71	141	111	172	84	38	879
CAHILL and LOSCOCO	15	27	12	18	24	35	29	31	29	20	240
STEIN and PURCELL	48	43	43	22	44	57	60	67	81	28	493
All Others	0	1	0	1	1	1	0	0	0	1	5
Blanks	3	6	6	2	7	6	6	7	11	4	58
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
ATTORNEY GENERAL											
MARTHA COAKLEY	429	793	406	366	607	978	757	1220	710	359	6625
JAMES P. MCKENNA	66	125	54	54	90	149	133	183	98	44	996
All Others	1	0	5	0	1	3	3	3	7	3	26
Blanks	18	31	15	13	29	47	40	58	41	20	312
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
SECRETARY OF STATE											
WILLIAM FRANCIS											
GALVIN	430	778	389	358	615	966	774	1212	700	350	6572
WILLIAM C. CAMPBELL	42	104	47	40	66	117	100	150	72	31	769
JAMES D. HENDERSON	12	13	9	10	12	30	14	28	34	14	176
All Others	1	1	5	0	1	1	1	1	2	2	15
Blanks	29	53	30	25	33	63	44	73	48	29	427
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959

	1	2	3	4	5	6	7	8	9	10	TOTAL
TREASURER											
STEVEN GROSSMAN	419	744	380	354	588	950	750	1171	693	356	6405
KARYN E. POLITO	56	144	57	54	94	157	136	202	100	41	1041
All Others	1	1	4	1	3	1	1	2	3	3	20
Blanks	38	60	39	24	42	69	46	89	60	26	493
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
AUDITOR											
SUZANNE M. BUMP	335	616	298	298	473	793	610	982	526	279	5210
MARY Z. CONNAUGHTON	62	144	71	62	87	157	141	208	95	37	1064
NATHANAEL ALEXANDER FORTUNE	71	102	60	42	102	140	110	147	162	71	1007
All Others	1	2	3	1	2	0	2	1	2	1	15
Blanks	45	85	48	30	63	87	70	126	71	38	663
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
REPRESENTATIVE IN CONGRESS											
JOHN W. OLVER	432	790	397	368	620	992	795	1209	717	358	6678
WILLIAM L. GUNN, JR.	46	101	42	42	61	120	92	171	61	29	765
MICHAEL ENGEL	21	30	26	12	35	41	34	52	51	26	328
All Others	0	0	1	2	0	0	0	4	1	0	8
Blanks	15	28	14	9	11	24	12	28	26	13	180
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
COUNCILLOR											
THOMAS T. MERRIGAN	421	723	367	338	578	930	738	1145	684	342	6266
MICHAEL FRANCO	43	108	49	42	69	131	113	163	71	31	820
All Others	1	0	2	1	1	2	0	2	4	1	14
Blanks	49	118	62	52	79	114	82	154	97	52	859
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
SENATOR IN GENERAL COURT											
STANLEY C. ROSENBERG	456	847	425	388	654	1028	809	1309	745	379	7040
All Others	4	6	4	6	3	11	10	5	7	4	60
Blanks	54	96	51	39	70	138	114	150	104	43	859
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
REPRESENTATIVE IN GENERAL COURT											
ELLEN STORY	430	785	393	361	610	967	782	1223	679	346	6576
DANIEL M. SANDELL	42	114	45	44	56	122	97	148	66	34	768
DANIEL EDWARD MELICK	19	12	22	8	31	37	19	46	69	19	282
All Others	0	0	0	1	0	1	1	2	2	0	7
Blanks	23	38	20	19	30	50	34	45	40	27	326
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959

	1	2	3	4	5	6	7	8	9	10	TOTAL
DISTRICT ATTORNEY											
DAVID E. SULLIVAN	445	783	405	374	621	991	792	1234	736	373	6754
*Michael Cahillane	0	0	1	0	1	0	0	3	0	1	6
All Others	2	5	3	3	4	8	7	2	5	3	42
Blanks	67	161	71	56	101	178	134	225	115	49	1157
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
SHERIFF											
ROBERT J. GARVEY	429	795	387	363	622	983	783	1232	739	355	6688
STEPHEN ANTHONY CHOJNACKI	44	80	42	38	51	112	91	139	56	27	680
All Others	1	1	3	0	1	1	0	6	4	1	18
Blanks	40	73	48	32	53	81	59	87	57	43	573
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
QUESTION 1											
YES	84	173	75	81	125	189	191	267	130	70	1385
NO	423	749	395	339	557	959	713	1168	710	341	6354
BLANKS	7	27	10	13	45	29	29	29	16	15	220
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
QUESTION 2											
YES	88	195	94	88	134	230	263	308	155	64	1619
NO	396	702	358	308	529	863	621	1054	641	320	5792
BLANKS	30	52	28	37	64	84	49	102	60	42	548
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
QUESTION 3											
YES	67	133	55	46	90	144	131	188	84	51	989
NO	440	805	420	379	606	1005	788	1245	756	364	6808
BLANKS	7	11	5	8	31	28	14	31	16	11	162
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959
QUESTION 4											
YES	370	610	306	312	448	719	628	962	623	322	5300
NO	101	231	113	80	179	324	216	352	172	66	1834
BLANKS	43	108	61	41	100	134	89	150	61	38	825
TOTAL	514	949	480	433	727	1177	933	1464	856	426	7959

**Indicates Write-in candidate*

PCT.	REPORT- ING TIME	TOTAL REGIS- TERED VOTERS	MACHINE VOTES	HAND COUNTED VOTES	TOTAL VOTES CAST	% VOTING
1	10:07	1,497	508	6	514	34.34
2	9:55	1,495	943	6	949	63.48
3	10:12	1,356	479	1	480	35.4
4	9:47	1,535	432	1	433	28.21
5	9:49	1,509	724	3	727	48.18
6	9:20	2,142	1,172	5	1,177	54.95
7	11:22	1,933	930	3	933	48.27
8	10:00	2,398	1,456	8	1,464	61.05
9	9:54	2,183	852	4	856	39.21
10	10:30	1,486	420	6	426	28.67
TOTAL		17,534	7,916	43	7,959	45.39

7,959 ballots were cast, representing 45.39% of the 17,534 voters registered.

Attest:
Sandra J. Burgess
Town Clerk

**RESULTS
SPECIAL TOWN MEETING
November 8 and 10, 2010**

The meeting was televised by Amherst Community Television and shown on the Government Channel.

The Special Town Meeting was called to order by the Moderator, Harrison Gregg at 7:40 p.m. There were 254 town meeting members. 128 checked in and a quorum was declared. The call and return of the warrant was read by Town Clerk, Sandra J. Burgess.

Mr. Gregg introduced the new Town Manager, John Musante, and new Finance Committee member, Gary Abbott, who is a town meeting member in Precinct 7.

Mr. Gregg recognized three members who had passed away since the last town meeting: John Roberts, Nancy Foster, and Chadwick Johnson. Town Meeting stood for a moment of silence.

Mr. Gregg introduced Dr. Floris Wilma Ortiz-Marrero who received the state Teacher of the Year Award.

Upon a motion made by Ms. O'Keeffe town meeting voted to consider Article 8 beginning at 7:30 p.m. Wednesday, November 10, 2010.

ARTICLE 1. Reports of Boards and Committees (Select Board)

VOTED unanimously to hear only those reports of Town officers, the Finance Committee, and any other Town boards or committees which are not available in written form.

Mr. Hayden introduced Mr. Yoshiichi Takahashi, Mayor, Town of Kanegasaki who addressed town meeting.
Mr. Aaron Hayden presented a report on behalf of the Energy Task Force.
Daniel Clapp of the Council on Aging introduced Dr. Randall who spoke briefly about the 2010 Survey of Amherst Residents Over 50 which he had conducted at the request of the Council on Aging.
Andrew Steinberg presented the Finance Committee report.
Action taken 11/8/2010.

ARTICLE 2. Transfer of Funds – Unpaid Bills (Select Board)

VOTED to DISMISS [To see if the Town will, in accordance with Chapter 44, Section 64, of the Massachusetts General Laws, appropriate and transfer a sum of money to pay unpaid bills of previous years.]
Action taken 11/8/2010.

ARTICLE 3. Atkins Corner Project Easements (Department of Public Works)

VOTED unanimously to supplement and confirm the votes taken under Article 7 of the 2007 Annual Town Meeting and Article 5 of the 2009 Annual Town Meeting and authorize the Select Board to acquire, by gift, purchase, or eminent domain, for public way purposes in connection with the Atkins Corner intersection project, the fee to and related construction, drainage, utility and other easements in the properties identified below and shown on a plan entitled “Plan of Land in the Town of Amherst, Hampshire County, Bay Road, West Bay Road and West Street, altered and laid out by the Town of Amherst,” dated May 2009 and recorded with the Hampshire Registry of Deeds in Plan Book 223, Plan 18, and on a plan entitled “Temporary Easement Plan in the Town of Amherst, Hampshire County, Bay Road, West Bay Road and West Street, altered and laid out by the Town of Amherst,” dated February 2009 and recorded in Plan Book 223, Plan 11.
Action taken 11/8/2010.

<i>Grantor</i>	<i>Property Address</i>	<i>Interest Acquired by Town</i>	<i>Book and Page</i>
Ronald A. Jacque and Deborah G. Jacque	1260 West Street	Temporary Construction Easement	Book 10173, Page 119
Michael D. Moriarty and Ashley Moriarty	1240 West Street	Temporary Construction Easement	Book 10173, Page 124
Apple Brook West, LLC	1194 West Street	Temporary Construction Easement	Book 10173, Page 127
Richard D. Konicek and Kathleen J. Moran	1034 West Street	Temporary Construction Easement	Book 10173, Page 132
Dorothy Lashway	11 Mountain View Circle	Temporary Construction Easement	Book 10173, Page 136

<i>Grantor</i>	<i>Property Address</i>	<i>Interest Acquired by Town</i>	<i>Book and Page</i>
Michael A. Lesy and Lisa C. Stouffer	10 Mountain View Circle	Temporary Construction Easement	Book 10173, Page 139
Seymour Epstein and Alice H. Epstein, Trustees of Balderwood Realty Trust	Bay Road	Deed of Fee and Easements	Book 10173, Page 194
Hampshire Village II Community Corporation	Rambling Road	Deed of Fee and Easements	Book 10173, Page 203
David C. Kelly and Allan C. McNeely	1184 West Street	Deed of Fee and Easements	Book 10173, Page 207
National Yiddish Book Center, Inc.	1021 West Street	Deed of Fee and Easements	Book 10180, Page 31
Orchard Run Associates	West Street	Deed of Fee and Easements	Book 10173, Page 62
Atkins Peach-Berry Hill, Inc.	West Street	Deed of Fee and Easements	Book 10173, Page 62
Hampshire College	West Street	Deed of Fee and Easements	Book 10173, Page 62
Valley Properties Land Trust	West Street	Deed of Fee and Easements	Book 10173, Page 62

Action taken 11/8/2010.

ARTICLE 4. FY 11 Budget Amendments (Finance Committee)

A: VOTED to amend the action taken under Article 9 of the 2010 Annual Town Meeting – Fiscal Year 2011 Operating Budget by increasing the appropriation and the amount to be raised by taxation for the Public Safety account by \$205,832 and by decreasing the appropriation and the amount to be raised by taxation for the General Government account by \$205,832.

Action taken 11/8/2010.

B: VOTED to amend the budget voted under Article 9 of the 2010 Annual Town Meeting (FY 2011 Operating Budget) for the Elementary Schools by reducing the appropriation by \$113,124.

Action taken 11/8/2010.

C: VOTED unanimously to appropriate and transfer \$66,347 from Free Cash in the Undesignated Fund Balance of the General Fund to the Health Claims Trust Fund to account for Medicare Part D reimbursements received by the Town of Amherst for prescription drug costs incurred by the Health Claims Trust Fund for Town of Amherst, Amherst-Pelham Regional School District, and Town of Pelham members.

Action taken 11/8/2010.

ARTICLE 5. Capital Program – Bond Authorization (Joint Capital Planning Committee)

VOTED by a declared two-thirds that the sum of \$4,500,000 be appropriated to pay costs of repairing various roadways throughout the Town and for the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7 of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

Action taken 11/8/2010.

ARTICLE 6. M.G.L. Chapter 32B, Section 20 – Other Post Employment Benefits Liability Trust Fund (Finance Committee)

VOTED unanimously to accept the provisions of M.G.L. c. 32B, § 20 that allows the Town to establish an Other Post Employment Benefits Liability Trust Fund and a funding schedule for the fund.

Action taken 11/8/2010.

ARTICLE 7. Community Preservation Act (Community Preservation Committee)

VOTED unanimously to (a) authorize the Select Board to acquire from John J. and Susan M. Stosz, by gift, purchase, or eminent domain, a certain parcel of land located north of East Leverett Road, containing a total of 5.60 acres, more or less, and identified on Assessors Map 3B Parcel 80 of the Town Cadastre, which parcel shall be under the care, custody, management and control of the Amherst Conservation Commission in accordance with G.L. Chapter 40, Section 8C for conservation and passive recreation purposes; (b) appropriate the sum of \$150,000 for the acquisition of said parcels and costs related thereto, of which \$45,000 shall be transferred from the Community Preservation Fund annual revenues and the remaining \$105,000 shall be borrowed in accordance with G.L. Chapter 44B, the Community Preservation Act, and further authorize the Treasurer, with the approval of the Select Board, to issue any bonds or notes that may be necessary for that purpose, as authorized by G.L. Chapter 44, or any other enabling authority; (c) authorize the Town Manager, the Select Board, and/or the Conservation Commission, as they deem appropriate, to file any and all applications under the LAND Program (G.L. Chapter 132A, Section 11) and/or any other applications for funds in any way connected with the scope of this acquisition, and enter into and execute any and all agreements and instruments on behalf of the Town as may be necessary or appropriate to effectuate said acquisition; and (d) further, authorize the Select Board and/or the Conservation Commission to convey a perpetual conservation restriction on said parcels in accordance with G.L. Chapter 184, as required by G.L. Chapter 44B, Section 12(a).

Action taken 11/8/2010.

VOTED unanimously to DISMISS [To see if the Town will appropriate and transfer a sum of money from FY 2011 Community Preservation Fund annual revenues to the Open Space Reserve.]

Action taken 11/8/2010.

VOTED to appropriate a sum of \$25,000 for Community Preservation Act Affordable Housing Purposes recommended by the Community Preservation Act Committee and to meet such appropriation \$17,200 to be transferred from Fund Balance reserved for Affordable Housing and \$7,800 from FY2011 CPA estimated revenues.

Action taken 11/8/2010.

ARTICLE 8. Zoning Amendment - Development Modification (Planning Board)

DEFEATED Yes 96, No 62 (Motion failed to achieve a two-thirds vote)

[To see if the Town will amend Table 3, Dimensional Regulations, and Articles 4, 6, 12, and 14 of the Zoning Bylaw by deleting the lined out language, adding the language in ***bold italics***, and replacing language, as follows:

Remove the current Article 14, Phased Growth, in its entirety, and replace it with the following new article:

ARTICLE 14 DEVELOPMENT MODIFICATION

SECTION 14.0 INTENT & PURPOSE

The purpose of this Article is to ensure that growth and development in Amherst occur in an orderly and planned manner, in accordance with the recommendations of the Master Plan adopted by the Planning Board. This Article is intended to encourage types and patterns of residential and commercial growth which reflect the values of the community, to mitigate the impacts of such development, and to maintain high quality municipal services for an expanding population.

SECTION 14.1 REGULATIONS

14.10 GENERAL REGULATIONS & ASSIGNMENT OF POINTS

The regulations of this Article shall apply to all residential and mixed use development in Amherst. In those zoning districts in which Table 3, Dimensional Regulations, establishes a maximum residential density through the use of minimum lot area and additional lot area/family, the Permit Granting Board shall, or the Special Permit Granting Authority may, as applicable, modify the residential density (number of dwelling units) for residential or mixed uses under Article 3 and residential developments under Articles 4 and 6 as part of the approval of any development. Similarly, for mixed uses under Section 3.325 the Permit Granting Board shall, or Special Permit Granting Authority may, as applicable, modify the dimensional requirements under Table 3 for building coverage (percent of lot covered by buildings), maximum floors, height and other dimensions, as provided under Section 14.3.

- 14.100 The provisions of this section shall be applied only to residential uses, residential development methods, residential accessory uses, and mixed uses under Section 3.325 meeting the following thresholds:

In the ‘outlying’ (R-N, R-O, and R-LD) districts – A net total of four (4) or more new dwelling units.

In the ‘center’ (B-G, B-L, B-VC, B-N, COM, R-G, R-VC and R-F) districts – A net total of six (6) or more new dwelling units.

- 14.101 Under Sections 14.2 and 14.3 of these regulations, wherever a single positive or negative point score is shown and the application meets the criteria of the section in question, that point score and no other shall be assigned. An exception shall be where Permit Granting Board or Special Permit Granting Authority determines that the assignment of the points depends upon a characteristic or quality of the proposed development or subject property which is partial; for example, where a subject property is located in more than one zoning district. In such instances, the points assigned shall be pro-rated based upon the percentage of the characteristic or quality present as determined by the Permit Granting Board or Special Permit Granting Authority. Wherever a range of potential points is shown, the Permit-Granting Board or Special Permit Granting Authority shall apply such standards or criteria as it deems necessary and appropriate to determine the appropriate point score. In all cases, points assigned shall not exceed the minimums or maximums shown. Unless otherwise specified, developments shall be eligible for all points for which they qualify.
- 14.102 Nothing in this section shall be construed as limiting the authority of the Special Permit Granting Authority to grant, modify or deny an application for a Special Permit under this section or to impose such conditions, safeguards and limitations on an application as are consistent with the provisions of Sections 10.3 and 10.4 of this Bylaw.

14.103 The provisions of this section shall not apply to those projects for which a valid Site Plan Review application was received prior to [date of adoption].

14.104 For each application, the Permit Granting Board and Special Permit Granting Authority shall determine points and modify the development at the time of permit approval. Similarly, under any application involving Definitive Subdivision approval, the Planning Board shall determine points and modify the development at the time of subdivision approval.

14.2 MODIFICATION POINT SYSTEM

The Permit Granting Board or Special Permit Granting Authority, as applicable, shall assign points to eligible developments under the following categories of public welfare. Points assigned in each category shall be cumulatively totaled and applied to Section 14.30, Development Modification Table, to determine what modifications, if any, shall be applied to the residential unit count or dimensional aspects of a proposed development. All applications for definitive subdivisions, Special Permits, and Site Plan Review approval eligible under Section 14.10 shall include a proposal from the applicant for the assignment of points under this section and a resulting point total.

14.20 HOUSING DEVELOPMENT

It is the policy of the Town of Amherst to encourage a full and diverse mix of housing serving all residents. The provisions of this section are intended to act in concert with the other provisions in this Bylaw addressing affordable housing, density bonuses, and inclusionary requirements.

14.200 AFFORDABLE & DIVERSE HOUSING

It is the policy of the Town of Amherst to preserve and expand the community's supply of low and moderate income affordable housing.

14.2000 Any development meeting the thresholds established under Section 14.10 which includes 25% or more of its units as affordable housing for low income households as defined under Article 12 and as eligible to be counted under the Subsidized Housing Inventory (SHI) maintained by the Mass. Dept. of Housing and Community Development or its successor under the provisions of MGL Ch. 40B, and which is subsidized by federal, state or local programs, or proposed by the Amherst Housing Authority, or by a non-profit or limited dividend partnership, or by a municipal housing trust under the provisions of MGL Ch. 44, Section 55C, or any development which includes 25% or more of its units as non-subsidized housing units priced to be affordable to households whose income is equal to or less than 80% of the median income for Amherst and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of forty years. +20

- 14.2001 Any development meeting the thresholds established under Section 14.10 which includes 25% or more of its units for moderate income households as defined under Article 12, and which is subsidized by federal, state or local programs, or proposed by the Amherst Housing Authority, or by a municipal housing trust under the provisions of MGL Ch. 44, Section 55C, or by a non-profit or limited dividend partnership, or any development which includes 25% or more of its units as non-subsidized housing units priced to be affordable to households whose income is greater than 80% or equal to or less than 120% of the median income for Amherst and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of forty years. +15
- 14.2002 Any development meeting the thresholds established under Section 14.10 which includes 12% - 24% of its units for low and/or moderate income households and meets the other criteria listed in Sections 14.2000 or 14.2001, above. +10
- 14.2003 Any development meeting the thresholds established under Section 14.10 which, exclusive of affordability, provides one unit, or 10% or more of its units, whichever is greater, as dedicated for the exclusive use of housing diverse population groups for a period not less than 30 years. Such groups may include, but are not limited to, the elderly, persons with disabilities, the homeless, and others eligible for public housing assistance under state and federal law. Developments that include attached units or apartments to meet these needs may be counted. +3 to+10
- 14.2004 Any development meeting the thresholds established under Section 14.10 but not bound by the requirements of Section 15.10 which provides one or more affordable housing units meeting the criteria listed in Sections 14.2000 or 14.2001:
- | | | |
|----------|--|------------------------------------|
| 14.20040 | Includes one (1) affordable unit | +5 |
| | For each additional affordable unit beyond one (1) | +2 |
| | | [not to exceed a total of 15 pts.] |
| 14.20041 | Includes no affordable units. | -5 to-10 |
- 14.2005 Any development meeting the thresholds established under Section 14.100 which provides units fully accessible under the provisions of the ADA and AAB, where affordable units meeting the criteria listed in Sections 14.2000 or 14.2001 are also being provided:
- | | | |
|----------|----------------------------------|----|
| 14.20050 | Includes one (1) accessible unit | +3 |
|----------|----------------------------------|----|

For each additional accessible unit beyond
one (1) +1
[not to exceed a total of 10 pts.]

14.20051 Includes no accessible units. -3 to-7

14.201 RESIDENTIAL DEVELOPMENT METHODS

It is the policy of the Town of Amherst to encourage the production of housing that is clustered in design and layout, so as to provide the greatest density of needed housing while requiring the least extent of roadways, utilities, and services, and consuming the least amount of critical resource lands in remaining open areas.

- 14.2010 Any development constructed under the cluster provisions of Section 4.3, the PURD provisions of Section 4.4, or the OSCD provisions of Section 4.5 of the Zoning Bylaw. For any development which includes both clustered lots and standard lots, the increase shall be pro-rated based on the percentage of cluster lots to total lots in the development. +1 to+5
- 14.2011 Any conventional residential subdivision development consisting of 4 or more lots, including standard frontage lots or flag lots created on both existing and proposed new ways. -10

14.21 CENTERS & MIXED USE DEVELOPMENT

It is the policy of the Town of Amherst to preferentially direct appropriate residential and mixed use development to existing built areas and centers with existing infrastructure, services, and transportation, and to actively discourage such development in Amherst's remaining open, outlying areas.

- 14.210 Any residential use under Sections 3.322-3.325 (inclusive) and 3.329, or residential development method or conversion within the B-G, B-VC, B-L, B-N, R-G or R-VC districts. +15
- 14.211 Any permitted residential use under Sections 3.322-3.325 (inclusive) and 3.329, or development or conversion not within the B-G, B-L, B-VC, B-N, R-G or R-VC districts but located within 1,000 feet of said districts and also within 500 feet of a federal or state highway or local street designated as arterial (principal, urban major or urban minor) by the Massachusetts Executive Office of Transportation or its successor. +5
- 14.212 Any use under Section 3.325 within the COM District. +3 to +7
- 14.213 Any residential use or development located within the R-N, R-O or R-LD zoning district(s) and meeting the threshold established under Section 14.10, excepting uses or developments with 25 percent or more of their total housing units affordable under the provisions of Sections 14.2000 or 14.2001 of this Bylaw. -5 to -15

14.22 CRITICAL NATURAL RESOURCE PROTECTION

It is the policy of the Town of Amherst to preserve and protect critical natural resources and the lands supporting or containing them, and to prevent or mitigate development on said lands.

14.220 AQUIFER & WATERSHED - The preservation of critical existing or potential areas of public water supply or recharge.

14.2200 Development in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts:

No public sewer	-15
On public sewer	-7

14.2201 Any development in the ARP or WP districts which provides no permanent protection or retention of open space. -7

14.221 WETLANDS & WILDLIFE HABITAT

The preservation of unique or critical natural resources, including wetlands as defined under state and local law, and wildlife habitats of state significance under 310 CMR 10.02, designated pursuant to 321 CMR 10.30 through 10.40, inclusive, including habitats identified under the Natural Heritage Endangered Species Program (321 CMR 10 and 310 CMR 10, as amended).

14.2210 Permanent protection and retention of the lands described under this section, above and beyond that mandated under state and local environmental regulations, in the following amounts:

500-5,000 sq. ft.	+1 to +10
For every additional 5,000 sq. ft.	+2
[not to exceed a total of +15 pts.]	

14.2211 Permanent protection and retention of lands described under this section, where they provide: 1) habitat suitable for fish or game species, 2) public access, and 3) sufficient distance from any hard-surfaced roads and any dwelling or building in regular use on adjacent properties, such that a minimum of 90 percent (90%) of the land area to be protected meets the requirements of MGL Ch. 131, Sec. 58, as amended, and is protected in the following amounts:

Minimum 5 acres	+3 to +10
For every additional 1 acres	+2
[not to exceed a total of +20 pts.]	

14.2212 Any development involving the disturbance and replication on the subject property of wetlands as defined under state and local law, or within any critical habitats of state significance.

500-5,000 sq. ft.	-5 to -10
Each additional 5,000 sq. ft.	-5
[not to exceed a total of -20pts]	

14.222 FLOODPRONE AREAS

The reasonable regulation of flood-prone areas in Amherst is a priority for reasons of public safety, preservation of property, and the protection of environmental values.

14.2220 Any development or accessory use in the FPC District other than in association with farming or another extensive land resource use permitted by right. -7

14.2221 Any development or accessory use on property that includes FPC District where said development occurs outside of or mitigates impacts on the flood-prone areas. +3 to+5

14.2222 Any development or accessory use providing permanent protection for flood-prone areas, in the following amounts:

2,000-5,000 sq. ft.	+3 to +5
For every additional 5,000 sq. ft.	+2
[not to exceed a total of 15 pts.]	

14.223 CRITICAL FARMLAND

It is a priority of the community of Amherst to preserve and promote farming and related resource-based activities as a part of Amherst's economic and cultural heritage, as a viable lifeway for Amherst residents, as a responsible use of land, as an important local source of food, and as an activity which sustains and fosters a connection to the land among citizens.

Protection and retention of farmland and the promotion of farming activity.

14.2230 Development on agricultural land, defined as land classified prime, unique or of state and local importance by the USDA SCS, or land characterized by active agricultural use as defined in MGL Ch. 128, Section 1A. -10

14.2231 In the Farmland Conservation (FC) District, retention and preservation under permanent agricultural restriction of agricultural land in the following amounts:

2 to <5 acres	+2 per acre
5 or more acres	+5 per acre
[not to exceed a total of 20pts.]	

- 14.2232 Any development in the R-LD/FC districts providing
no permanent protection or retention of farmland. -7 to -10
- 14.2233 Provision of a minimum 150 foot buffer zone,
including a fence and screening vegetation, between
new residential buildings and the property boundary
of a working farm +3 to +5
- 14.2234 Provision or creation of community gardens as part of
any development outside the FC District.
- In a 'center' district (Section 14.10) +5 to +10
In an 'outlying' district (Section 14.10) +3 to +10
- For use by the general public +3 to +7
- 14.2235 Frontage or flag lot development under M.G.L. Ch. 41,
Section 81P, with frontage located outside the FC District
and a portion of lot area abutting or within the FC District.
- 14.22350 More than 5,000 sq. ft. of individual or
average lot area in the FC District. -7
- 14.22351 2,500-5,000 sq. ft. of individual or
average lot area in the FC District. -5
- 14.22352 Less than 2,500 sq. ft. of individual or
average lot area in the FC District. -3
- 14.22353 No lot area in FC District. 0

14.23 CRITICAL HISTORIC RESOURCES

It is the policy of the Town of Amherst to preserve, restore, rehabilitate, and, as appropriate, adaptively reuse its critical historic and archeological resources.

- 14.230 The permanent preservation of unique or critical historic or archeological resources on properties which: 1) are listed on the National or Massachusetts Registers of Historic Places, or, 2) are located in any local historic district established under MGL Ch. 40C, as amended, or, 3) are listed on the Amherst Historic Resource Inventory, or, 4) have been determined by the Amherst Historical Commission to be a significant structure under the provisions of Article 13 or as a separate review conducted at the request of the Permit Granting Board or Special Permit Granting Authority under this section:

- 14.2300 Permanent preservation of the resource through the conveyance of
a deed restriction or easement in perpetuity, or fee simple interest
to the Commonwealth, the Town, or a qualified non-profit organization, the
principal purpose of which is the preservation of historic or archeological
resources. +7 to +15

14.2301 Treatment of the resource in accordance with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, under the following categories, as defined therein:

Preservation	+7 to +15
Rehabilitation	+3 to +10
Restoration	+3 to +7
Reconstruction	+3 to +5

14.2302 Demolition of a structure:

Without benefit of a demolition permit	-5 to -15
Prior to the end <i>of</i> a demolition delay period imposed by the Amherst Historical Commission.	-3 to -15
After a demolition delay period imposed by the Commission has ended	-3 to -10

Note: No points shall be deducted where: 1) the Historical Commission has granted permission for issuance of a demolition permit under any provision of Article 13, or 2) the Building Commissioner has issued an emergency demolition permit under Section 13.6.

14.2303 Removal or willful or negligent alteration or destruction of significant distinguishing characteristics of: 1) any critical historic resources under the provisions of Section 13.7, or 2) any critical archeological resource listed by the Massachusetts Historical Commission. -3 to -15

14.24 SUSTAINABLE SITE & BUILDING DESIGN

It is the policy of the Town of Amherst to mandate, promote, and assure development which adheres to principles of energy efficiency and sustainability in terms of location, siting, materials, energy use, and design.

14.240 Site and building design which allows for increased density of residential units in the 'center' districts (see Section 14.10) and which, in the judgment of the Permit Granting Board or Special Permit Granting Authority, responds to, preserves, replicates, reinforces and/or enhances and improves the historical, architectural, and spatial character of a village center or a residential neighborhood. +5 to +10

14.241 Site and building design which respond to, incorporate and protect natural features such as vegetation, topography, water courses, significant street or shade trees and scenic views. +5 to +7

14.242 Site design and building construction which, in the judgment of the Permit Granting Board or Special Permit Granting Authority, maximize sustainable design and energy conservation and efficiency, including but not limited to super-insulation, appropriate reuse of existing or salvaged materials, use of sustainably obtained or recycled materials, green roofs and permeable paving, and alternative Energy sources, including, but not limited to, passive solar design, on-site energy generation (heat exchange/heat pump technology, geo-thermal, photo-voltaic solar, solar heating or cooling, wind generation, small-scale biomass, and similar sources. +3 to +10

- 14.243 Site design and building construction which meet the requirement for LEED or equivalent certifications for energy or the use of sustainable forest products or other building materials. +7 to +15
- 14.244 Site design and building construction whose design provides unobstructed access to solar and wind for adjacent properties. +5
- 14.245 Site and building designs which employ universal accessibility design for new construction, renovations, and redevelopment, including redesign and renovation of existing residences and structures to assure the ability of mobility-impaired residents to visit neighbors. +3 to +10
- 14.246 Site and building design which fail to address any three of the above. -5 to -15

In no event shall more than a total of 50 points be assigned under this section.

14.25 TRANSPORTATION

It is the policy of the Town of Amherst to develop a balanced, accessible, safe, and environmentally responsible transportation and circulation system that serves users of public transit, pedestrians, bicyclists, and drivers, and that is connected within and among different transportation modes both in Amherst and the region.

- 14.250 Above and beyond the requirements of subdivision regulations, where applicable, access to or the provision of pedestrian, bicycle, or public transit facilities for residential uses and developments meeting the thresholds established under Section 14.10:

- 14.2500 Access to existing sidewalks, or to existing multi-use paths meeting ADA/AAB Regulations for handicapped accessibility, including walking, bicycle or bridle paths or trails located within the site, connecting the site to adjacent public ways, or creating links to existing off-site paths. +5 to +10

- 14.2501 Provision of new sidewalks or other multi-use paths meeting ADA/AAB Regulations for handicapped accessibility, including new walking, bicycle or bridle paths or trails located within the site, connecting the site to adjacent public ways, or creating new links to existing off-site paths.

- 14.25010 Where such paths or trails are fully accessible to members of the general public. +7 to +10

- 14.25011 Where such paths or trails are provided but are accessible only to residents of the development and not to members of the general public. +1 to +3

- 14.25012 Failure to provide such paths and trails. -3 to -7

- 14.2502 Access to or provision of a public transit stop and connections thereto, including but not limited to stops for buses and passenger rail service.

14.25020	Access to one or more existing public transit stops connected to the site via existing sidewalks or pedestrian paths, where a stop is located:	
	Within 500 feet of the site	+10
	Within 1,000 feet of the site	+5
14.25021	No public transit stop located within 1,000 feet of the development.	-5 to -10
14.25022	Provision of a new public transit stop connected to the site via existing or new accessible pedestrian paths, where the new stop is located:	
	Within 500 feet of the site	+15
	Within 1,000 feet of the site	+10
14.25023	Provision of a new accessible public sidewalk connection between the site and any existing public transit stop(s) within 1,000 feet of the site.	
+5 to +10		
14.25024	Failure to provide an accessible sidewalk connection to an existing public transit stop located within 1,000 feet of the site.	-7 to -10
14.2503	Provision of new public transportation alternatives, including but not limited to car or bicycle sharing programs, shuttle transit, or, contribution to or participation in the development of multi-modal facilities or new alternative public transit modes, including but not limited to monorail, light rail, and similar modes.	+5 to +15

14.3 DEVELOPMENT MODIFICATION CALCULATIONS

14.30 Development Modification Table

Points accumulated under Section 14.2 shall be totaled and the total point score shall determine the percentage of change, if any, to the total residential unit count, mixed use building coverage, or other dimensions, as hereinafter provided in this section.

<u>Total Points</u>	<u>B-G B- L¹ B-VC</u>	<u>B-N R-G R-VC</u>	<u>R-N B-L²</u>	<u>R-O R-LD</u>	<u>COM</u>	<u>R-F</u>	<u>FPC</u>
90 or more	40%	35%	25%	20%	15%	0%	0%
80 to 89	35	30	25	15	15	0	0
70 to 79	30	25	20	10	10	0	0
60 to 69	25	20	15	5	10	0	0
50 to 59	20	20	15	5	10	0	0
40 to 49	15	15	15	5	5	0	0
30 to 39	15	10	10	0	5	0	0
20 to 29	10	5	5	0	5	0	0
10 to 19	5	5	5	0	0	0	0
0 to 9	0	0	0	0	0	0	0
-10 to -1	-5	-5	-5	-5	0	0	0
-20 to -11	-10	-5	-5	-5	-5	0	0
-30 to -21	-15	-10	-10	-5	-5	0	0
-40 to -31	-15	-15	-10	-10	-10	0	0
-50 to -41	-20	-20	-15	-15	-15	0	0
-60 to -51	-25	-20	-15	-15	-20	0	0
-70 to -61	-30	-25	-20	-20	-25	0	0
-80 to -71	-35	-30	-25	-25	-30	0	0
-81 or less	-40	-35	-25	-30	-35	0	0

¹ B-L abutting B-G

² B-L not abutting B-G

14.31 Residential Uses or Development

The standard maximum density established for any residential land use or residential development method under Table 3 and Article 4 of this Bylaw shall be modified, and increased or decreased based upon the total points accumulated under Section 14.1. Using the Development Modification Table above, the total points shall indicate, for the zoning district in which the development is located, a specific percentage increase or decrease in the maximum density (number of dwelling units), where the standard maximum density shall be considered equal to 100% (or 1.0) and the figure shall represent the percentage of that standard maximum density by which the total is increased or decreased.

Under this section, for cluster subdivisions and OSCDs in the R-O and R-LD districts, the maximum number of lots or units, as applicable, otherwise allowed under the development method may be increased by the number of affordable units proposed, not to exceed 120 percent of the maximum otherwise allowable. This limitation shall not apply in other districts where these development methods are available.

In calculating the total number of dwelling units resulting from this modification, the provisions of Section 4.12 shall apply.

14.32 Mixed Uses

The standard maximum building coverage permitted under Table 3 for any mixed use under Section 3.325 shall be modified, and increased or decreased based upon the total points accumulated under Section 14.1. Using the Development Modification Table, the total points shall indicate, for the zoning district in which the development is located, a specific percentage

of increase or decrease in the maximum building coverage for the applicable zoning district, where the standard maximum building coverage, as calculated in square feet, shall be considered equal to 100% (or 1.0) and the specific percentage derived shall be the percentage of the standard maximum building coverage by which total building coverage shall be increased or decreased.

In calculating the resulting square footage of maximum building coverage resulting from this modification, any fractional portion greater than or equal to 0.5 of a single percentage (1.0%) of total resulting building coverage shall be rounded up to the nearest whole percentage, and any fractional portion less than 0.5 of a single percentage (1.0%) of total building coverage shall be rounded down to the nearest whole percentage.

- 14.33 Any residential or mixed use accruing more than 50 total points may also increase the number of floors for existing or proposed buildings by a single floor above the maximum for the applicable zoning district. In those instances, the Permit-Granting Board or Special Permit Granting Authority, as applicable, may modify the maximum height as it deems appropriate in order to accommodate the additional floor, except that the increase above the maximum allowed height shall not exceed fifteen (15) feet.

Additionally, for any residential use scoring 50 or more points, or any mixed use scoring 60 or more points in the B-G, B-L, B-VC, B-N, and COM districts, the Permit Granting Board or Special Permit Granting Authority may modify the minimum front, side, and rear setbacks and the maximum lot coverage. Under this provision, front, side, and rear setbacks need not be provided, but may be set as determined by the Permit Granting Board or Special Permit Granting Authority. If provided, side and rear setbacks shall be at least 10 feet. Maximum lot coverage may be increased by an amount not exceeding 10 percent of the requirement under Table 3.

B. Add a new superscript o. to the title of Table 3, Dimensional Regulations, and a corresponding new footnote, as follows:

- o. The dimensional regulations and resulting densities of Table 3 may be modified under the provisions of Article 14, Density & Dimensional Modification.

C. Amend the following existing subsections of Article 4, Development Methods, and add a new Section 4.4221, as follows:

[Affordable clusters]

- 4.330 The Planning Board may authorize a greater *shall modify the* number of building lots than would be allowed by the density requirements of Section 4.3231 or Section 4.327 *in accordance with the provisions of Article 14.* only if a minimum of 10% of the total dwelling units in the development are affordable units as herein defined. In no event shall the Board authorize a greater number of building lots than 120% of the maximum number of lots otherwise allowed under the applicable development method. For the purpose of this calculation, 10% of the total parcel size shall be subtracted for road allowance prior to calculating the maximum density normally allowed. See Section 4.12.

[OSCD affordable units]

- 4.550.0 In any OSCD that includes affordable dwelling units in accordance with Sections 4.333-4.334, the maximum density established under Section 4.520 may be *modified* increased *in accordance with the provisions of Article 14.* by the number of affordable units proposed. Additional units allowed under this provision shall not exceed 20% of the maximum otherwise permitted under Section 4.520.

[OSCD accessible units]

4.551.0 In any OSCD that includes dwelling units fully handicapped accessible under the provisions of Massachusetts Architectural Access Board regulations (521 CMR), as amended, the maximum density established under Section 4.520 may be **modified** increased ***in accordance with the provisions of Article 14.*** by the number of accessible units proposed, except that no accessible units may be counted as part of such a density bonus unless separate affordable dwelling units are also being provided. Additional accessible units allowed under this provision shall not exceed 10% of the maximum otherwise permitted under Section 4.520.

[PURD affordable units]

4.4221 *In any PURD that includes affordable dwelling units in accordance with Sections 4.333-4.334, or dwelling units fully handicapped accessible under the provisions of Massachusetts Architectural Access Board regulations (521 CMR), as amended, the maximum density that could otherwise be established under this section may be modified in accordance with the provisions of Article 14.*

D. Amend Sections 6.17 and 6.18, by adding the new sentence “See Section 14.3.” to the end of each section.

E. Amend Article 12, Definitions, by adding the following new definitions in alphabetical order and renumbering the remaining sections accordingly:

12. *Historic or Archeological Resources, Critical: Sites, landforms, structures, objects or features which are: (1) located on properties or themselves listed on the National Register of Historic Places, or (2) included in the Amherst Historic Resource Inventory, or have been, (3) found by the Amherst Historical Commission to be significant under the provisions of Section 13.4 of this Bylaw, whether as part of a demolition delay proceeding or otherwise.*

12. *Housing, Affordable: Affordable housing units are units which may be rented or purchased by those who meet the guidelines for maximum annual income for low-income or moderate-income family or household. The income limit for low-income shall be 80% of the median income for Amherst and the income limit for moderate-income shall be 120% of median income for Amherst.*

Median income for Amherst shall be as calculated by the U.S. Department of Housing & Urban Development, or any successor agency and shall be adjusted for family size.

Permanently preserved affordable housing shall be defined to include any dwelling units providing affordable housing for low or moderate income households as defined above, where said units are: (1) eligible to be counted under the Subsidized Housing Inventory (SHI) maintained by the Mass. Dept. of Housing and Community Development or its successor under the provisions of MGL Ch. 40B, or (2) proposed by the Amherst Housing Authority or a non-profit or limited dividend partnership or a municipal housing trust under the provisions of MGL Ch. 44, Section 55C, and subsidized by federal, state or local programs, or (3) non-subsidized housing units priced to be affordable to low or moderate income households. Under (2) and (3) above a deed restriction enforceable by the Town of Amherst shall be recorded providing that the affordable units will remain affordable at the level specified for a period of forty years.

12. *Preservation, Permanent: For the purposes of this Bylaw, permanent preservation of any land, property, or resources hereunder shall entail either (1) conveyance to the Commonwealth of Massachusetts for the specified public purpose(s), or (2) conveyance to the Town of Amherst and*

acceptance of it for the specified public purpose(s), or (3) conveyance to a non-profit organization or public trust, the principal purpose of which is consonant with the public purpose(s) being served under the Bylaw, or (4) conveyance to a corporation or trust owned or to be owned by the owners of the land, property, or resources in question. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyances of the lots or residential units. Under the third and fourth ownership alternatives listed above, a deed restriction enforceable by the Town of Amherst shall be recorded providing that such land, property, or resource shall, in perpetuity, be owned, maintained, and utilized in a state and manner consistent with the public purposes for which the preservation in question has been established. For the permanent preservation of housing, see the definition for Housing, Affordable.

12. *Scenic View: A scenic view is a wide angle or panoramic field of sight constituting or affording pleasing views of relatively undisturbed natural features to which the public has access and which may include views of unique natural and/or man-made structures and activities. A scenic view may be visible to the public from a stationary viewpoint or while travelling along an existing or proposed roadway, waterway, or path. A scenic view may afford visual access to a distinct but distant object, such as a mountain, or a nearby object.]*

Action taken on 11/10/2010.

ARTICLE 9. Zoning Amendment - Accessory Livestock or Poultry (Planning Board)

VOTED to refer the article back to the Planning Board for further study.

[To see if the Town will amend Section 5.014 and Article 12, of the Zoning Bylaw, by deleting the lined out language and adding the language in *bold italics*, as follows:

5.014 Livestock or Poultry

The raising or keeping of livestock or poultry for use by residents of the premises shall be considered as an accessory use that is *to residential uses in selected residential districts in Amherst, and shall not be permitted in other districts. All livestock and poultry raised and kept as an accessory use, whether for food, as pets, or for other uses, shall be subject to the regulations of this section and all applicable local and state laws, including MGL Ch. 40A, Section 3, as amended.*

5.0140 The accessory raising or keeping of livestock or poultry in residential districts:

5.01400 *Shall be* allowed by right in the Outlying Residence (**R-O**) and Low-Density Residence (**R-LD**) Districts;

5.01401 *Except as provided for under Section 5.0141 below, shall be* subject to approval of a Special Permit by the Board of Appeals *or the Special Permit Granting Authority authorized to act under the applicable section of this Bylaw, as applicable,* in the *General Residence (R-G), Village Center Residence (R-VC), and* Neighborhood Residence (**R-N**) and Residential Village Center Districts, and not permitted elsewhere.

5.01402 *In all cases, the accessory keeping and raising of livestock or poultry shall require registration of said livestock or poultry with the Amherst Health Department and regular inspections by the Animal Welfare Officer under applicable state law or regulations. All Special Permits issued under this section shall include as conditions of approval the submission of evidence of such registration and inspections.*

5.0141 *In the General Residence (R-G), Village Center Residence (R-VC), and Neighborhood Residence (R-N) Districts on properties less than 30,000 sq. ft. in area, only domesticated rabbits (which shall include domesticated hares for the purpose of this Bylaw), and selected domestic fowl (ducks, pigeons, doves, and hens) may be raised and kept as an accessory use. On such properties, no roosters, geese, swans, turkeys, pheasants, peacocks, guinea fowl, pygmy goats, potbellied pigs, or any other livestock or poultry shall be permitted. For the purpose of this regulation, only reproductively mature rabbits and fowl shall be considered adults counting toward maximum requirements.*

On properties 30,000 sq. ft. in area or more in these districts, other livestock and poultry may be raised and kept only under a Special Permit, except that no Special Permit shall be required for the keeping and raising of livestock or poultry on properties of 2 acres or more meeting the thresholds established under MGL Ch. 40A, Section 3.

5.0142 *On any given property in these districts, the maximum allowable number of adult rabbits and selected domestic fowl, any combined total thereof, or other livestock or poultry, shall be as follows, based upon the size of the property and regardless of the number of dwelling units:*

Maximum Total Number of Animals

<u>Property Area</u>	<u>By Right (No Special Permit)</u>	<u>Special Permit Only</u>
<i>Less than 10,000 sq. ft.</i>	3	<i>More than 3*</i>
<i>10,000 sq. ft. to <12,000 sq. ft.</i>	4	<i>More than 4*</i>
<i>12,000 sq. ft. to <20,000 sq. ft.</i>	6	<i>More than 6*</i>
<i>20,000 sq. ft. to <30,000 sq. ft.</i>	8	<i>More than 8*</i>
<i>More than 30,000 sq. ft.</i>	10	<i>More than 10 or any number of other livestock or poultry.*</i>

**As determined by the Special Permit Granting Authority.*

On properties of two acres or more meeting the thresholds established under MGL Ch. 40A, Section 3, any number of livestock and poultry may be kept and raised as of right Consistent with the provisions of state law. On properties of less than five acres that do not meet the thresholds established under MGL Ch. 40A, Section 3, the keeping of any number of livestock or poultry shall be permitted only under a Special Permit.

5.0143 *All livestock or poultry shall be raised and kept in a safe and humane manner, consistent with best agricultural practices and as required under all applicable local and state regulations.*

5.0144 *Any provision of Section 5.014, Livestock or Poultry, may be waived or modified by the permit granting authority for compelling reasons of public health, safety, and general public welfare.*

B. Amend Article 12, by adding the following new definitions in alphabetical order, and renumbering the remaining sections accordingly:

12. ***Livestock and Poultry: All domesticated mammals and birds that are customarily raised and kept for agricultural purposes, including but not limited to horses, ponies, donkeys, mules, cattle, goats, llamas, alpacas, swine, sheep, rabbits, hares, and fowl, which shall be defined as including, but not limited to, chickens (hens and roosters), turkeys, pigeons, capons, ducks, geese, swans, pheasants, peacocks, guinea fowl, emus, and all wild mammals and game birds raised and kept in accordance with state and local law. Except as provided for under Section 5.014, livestock and poultry shall not include domesticated animals such as dogs, cats, various species of rodents, exotic birds, reptiles, fish, amphibians or wild animals customarily raised and kept as pets in accordance with state and local law.***

12. ***Pets: Domesticated animals such as dogs, cats, selected exotic mammals (pot-bellied pigs, dwarf goats, etc.), various species of rodents (rats, mice, guinea pigs, hamsters, ferrets, chinchillas, etc.), exotic birds, reptiles, fish or amphibians. The keeping of wild animals, exotic birds, fish, reptiles, and amphibians as pets is subject to the requirements of M.G.L. Ch. 131, Sections 23, 25 and 26A, as amended, and 321 CMR 2.12 and 9.01, as amended.]***

ARTICLE 10. Zoning Amendment - Farm Stands & Farmland (Planning Board)

VOTED by a declared two-thirds to amend Section 3.312 and Article 12 of the Zoning Bylaw, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Section 3.312

3.312 Salesroom or farm stand for the sale of nursery, garden or other agriculture produce (including articles of home manufacture from such produce)

Class I and Class II farm stands shall be located The on a farm shall be property a minimum of ~~two (2) acres in size where it can be demonstrated that the sale of products produced from the agricultural use of the property annually generates at least \$1,000~~

per acre based on gross sales dollars, or, on a property a minimum of five acres in size for both Class I and Class II facilities.

3.3120 Class I ***Farm stand***

R-O

R-LD R-N R-VC R-G R-F B-G B-L B-VC B-N COM OP LI PRP FPC

SPR SPR SPR SPR SPR SPR SPR SPR SPR SPR SPR SPR SPR SPR

Action taken 11/8/2010.

Standards & Conditions

For produce grown during either June, July, August & September of every year, or during the harvest season of the

crop(s) raised on land of the owner or lessee, at least 25 percent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located. For produce generated without regard to seasons, at least 25% of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located, and

R-O

<u>R-LD</u>	<u>R-N</u>	<u>R-VC</u>	<u>R-G</u>	<u>R-F</u>	<u>B-G</u>	<u>B-L</u>	<u>B-VC</u>	<u>B-N</u>	<u>COM</u>	<u>OP</u>	<u>LI</u>	<u>PRP</u>	<u>FPC</u>
SP	SP	SP	SP	SP	SPR	SPR	SPR	SPR	SPR	SP	SP	SP	SP

at least an additional 50 percent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land, other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture (including the growing and keeping of nursery stock and the sale thereof), floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, all as provided for under MGL Ch. 40A, Sec. 3, as amended.

3.3121 Class II *Farm stand*

For produce grown during June, July, August & September of every year, or during the harvest season of the primary crop(s) raised on land of the owner or lessee, at least 15% of the products for sale shall be produced by the owner or lessee of the land on which the facility is located. For produce generated without regard to seasons, at least 15% of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located, and at least an additional 50 percent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land, other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture (including the growing and keeping of nursery stock and the sale thereof), floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another.

Amend Article 12, Definitions, by adding the following new definitions in alphabetical order and renumbering the remaining sections accordingly:

12. *Farmland: Land under agricultural use as defined in MGL Ch. 128, Section 1A, and MGL Ch. 61A, Sections 1 and 2, inclusive, as amended, and, including for the purposes of this Bylaw, the lawful propagation and raising of wild or game species under applicable state and federal law, and, land under agricultural use whose soils are classified as prime, unique, or of state and local importance by the USDA Soil Conservation Service. The provisions of MGL Ch. 40A, Section 3, shall apply.*

Action taken on 11/8/2010.

ARTICLE 11. Zoning Amendment - Medical Use Definitions (Planning Board)

VOTED unanimously to amend Sections 12.251 and 12.252, by deleting the ~~lined-out~~ language and adding the language in *bold italics*, as follows:

12.251 Medical center: Two (2) or more medical group practices, or ~~an equivalent aggregation of~~ medical offices, *or combination thereof*, operating in the same building or on the same property, which may also contain associated *principal or* accessory uses such as diagnostic testing facilities, physical therapy, therapeutic or counseling services, pharmacies, medical supply retailers, and similar uses. A medical center shall not include medical residential facilities.

12.252 Medical group practice: A medical, dental, or psychiatric practice ***larger than a medical office***, including ~~the full-time equivalent of four (4) or more~~ principal health care providers, ~~and three (3) or more~~ other medical or dental professionals, ~~exclusive of~~ ***and*** administrative or clerical staff, providing services on the premises. A medical group practice ***and its principal health providers shall offer medical services within one area of medical practice (ex., general practice, orthopedics, cardiology, obstetrics and gynecology, oncology, etc.) or within a small number of closely related areas of medical practice, and*** may also contain in-house diagnostic testing facilities, medical counseling services, and similar services, or may be associated with other similar accessory or complementary principal uses in the same building.

[The motion included re-numerating both of the amended sections.]

Action taken 11/8/2010.

At 10:00 p.m. on November 8, 2010, the meeting voted to adjourn to Wednesday, November 10, 2010 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 170 town meeting members were checked in.

The November 10, 2010 session, adjourned from November 8, 2010, was called to order by the Town Moderator, Harrison Gregg, at 7:39 p.m. 128 town meeting members were checked in.

Select Board Chair, Stephanie O'Keeffe, recognized the following people for their service to the town:

Connie Kruger – Board of Assessors from 2004 to 2010

Doris Holden – Council on Aging from 2004 to 2010

Marilyn Blaustein – Finance Committee from 2003 – 2010

Sandra Sulsky – Board of Health from 2004 to 2010

Edith Byron – Amherst Cultural Council from 2004 to 2010

Anne Burton – Amherst Cultural Council from 2002 – 2010

Vince O'Connor – Public Works Committee from 2004 – 2010

Robert Crowner – Public Works Committee from 2004 - 2010

Town Meeting resumed with Article 8. James E. Scott, H. Oldham Brooks, James W. Pistrang, Nonny Burack, Hilda B. Greenbaum, and Nancy M. Gordon were sworn in as tellers by the Moderator.

ARTICLE 12. Town and School Purchasing Food from Local Farms (Agricultural Commission)

VOTED unanimously to accept the following resolution:

Whereas, the Town of Amherst has a long history of supporting local farms and agriculture, most recently evidenced by the adoption of a local Right-to-Farm bylaw;

Whereas, the citizens of Amherst value good nutrition especially for our children and recognize that food grown close to home is likely to be safer, fresher and therefore more nutritious;

Whereas, Amherst is located in the Pioneer Valley of the Connecticut River, an area rich with agricultural communities and excellent farming operations;

Whereas, escalating climate change, diminishing supplies of readily available and inexpensive fossil

fuels, and continued economic stress may be at least partially ameliorated by increasing availability and consumption of local foods.

Therefore, be it resolved that, pursuant to the Uniform Procurement Act MGL c.30B, §4(d) it is the stated preference of the Town of Amherst that all governmental bodies, including the town's schools, make every effort to purchase agricultural products, grown or produced as part of a Massachusetts farming operation, with preference given to farmers in the town and nearby communities when appropriate and allowed by law. This preference extends to stating such a preference when any governmental body is advertising for bids or contracts for purchases of agricultural products of \$25,000 or more.

Action taken on 11/10/2010.

ARTICLE 13. Petition – Dog Welfare (Vickers)

VOTED to adopt the following general bylaw:

In order to enhance the quality of life of citizens and dogs in the Town of Amherst, and to protect the general public from damage and nuisance that may be caused by dogs confined outdoors, this bylaw regulates the confinement and tethering of dogs.

Prolonged Confinement of Dogs Outside

(A) Prolonged Chaining or Tethering of Dogs is Prohibited.

No person owning or keeping a dog in the town shall chain or tether a dog to a stationary object including but not limited to any structure, dog house, pole or tree for longer than eight (8) total hours in any 24-hour period. Any tethering employed shall not allow the dog to leave the owner/guardian's or keeper's property. The tether must be designed for dogs (e.g., logging chains and other lines or devices not for the purpose of tethering dogs may not be used). No chain or tether shall weigh more than one-eighth (1/8) of the dog's body weight. Nothing in this section shall be construed as prohibiting a person from walking a dog on a hand-held leash.

No dog under the age of six (6) months shall be tethered outside for any length of time.

(B) Permissible Outside Confinement.

A person owning or keeping a dog in the town may confine such dog outside, subject to the restrictions stated elsewhere in this by-law, through the use of any of the following three methods:

(1) Inside a pen or secure enclosure, if the following conditions are met:

(a) The pen or secure enclosure has adequate space for exercise with a dimension of at least one hundred (100) square feet. Commercial dog kennels with pens intended for the temporary boarding of dogs are exempt from this requirement.

(b) The pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all four (4) sides enclosed.

(c) The minimum height of the fence is adequate to successfully confine the dog.

(2) A fully fenced, electronically fenced, or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard.

(3) A trolley system or a tether attached to a pulley on a cable run, if the following conditions are met:

(a) Only one dog may be tethered to each cable run.

(b) The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two (2) adult fingers may fit. Choke collars and pinch collars are prohibited for the purposes of tethering a dog to a cable run.

- (c) There must be a swivel on at least one end of the tether to minimize tangling of the tether.
- (d) The tether and cable run must each be at least ten (10) feet in length. The cable must be mounted at least four (4) feet but not more than seven (7) feet above ground level.
- (e) The length of the tether from the cable run to the dog's collar or harness must allow continuous access to clean water and appropriate shelter at all times as described in paragraph (C) of this bylaw. The trolley system or tether must be of appropriate configuration to confine the dog to the owner/guardian's or keeper's property, to prevent the trolley system or tether from extending over an object or an edge that could result in injury or strangulation of the dog, and to prevent the trolley system or tether from becoming tangled with other objects or animals.

(C) Access to Water and Shelter.

Any person owning or keeping a dog in the town confined outside in accordance with Paragraph (B) of this section must provide the dog with access to clean water and an appropriate dog shelter. The dog shelter must allow the dog to remain dry and protected from the elements. Such shelter shall be fully enclosed on at least three sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down, and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage must be provided so that water, ice, or waste is not standing in or around the shelter.

(D) No Outside Confinement at Night.

No person owning or keeping a dog in the town may leave a dog chained, tethered or confined outside between the hours of 11:00 p.m. and 7:00 a.m.

(E) Exceptions to Outdoor Confinement.

Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(F) Cruel Conditions and Inhumane Chaining or Tethering are Prohibited.

No person owning or keeping a dog in the town may subject the dog to cruel conditions or inhumane chaining or tethering at any time. Cruel conditions and inhumane chaining or tethering are defined but not limited to the following conditions:

- (1) Filthy and dirty confinement conditions, including but not limited to exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill the dog upon contact, or other circumstances that could cause harm to the dog's physical or emotional health.
- (2) Taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog.
- (3) Subjecting the dog to dangerous conditions, including attack by other animals.

(G) Violations and Penalties

Any person owning or keeping a dog in the town who violates any provisions of this ordinance are subject to the following penalties and enforcement actions:

- (1) First violation. Violator will be subject to a warning only unless the town deems conditions warrant a penalty, in which case the violator will be subject to a fine of fifty dollars (\$50.00) and must meet remediation requirements set forth by the town no later than ten (10) calendar days after the violation. Failure to satisfy the conditions of the first violation shall immediately subject the violator to a second violation.

- (2) Second violation. Violator will be subject to a fine of one hundred dollars (\$100.00) and must meet remediation requirements set forth by the town no later than ten (10) calendar days after the violation. Failure to satisfy the conditions of the second violation shall immediately subject the violator to a third violation.
- (3) Third violation. Violator will be subject to a fine of three hundred dollars (\$300.00), impoundment of the dog in the town's shelter at the owner/guardian's expense pending compliance with the by-law, and potential loss of ownership of the dog.

Action taken on 11/10/2010.

ARTICLE 14. Petition – Resolution to Bring the War Dollars Home (Hooke)

VOTED Yes 74, No 32, to vote the following resolution:

WHEREAS, the financial resources available for use by governments at the local, county, state and federal levels in the United States are limited, and

WHEREAS, an inordinate level of military expenditure is being spent by the U.S. federal government for warfare in Iraq, Afghanistan and Pakistan, and

WHEREAS, the people of Amherst, Massachusetts are collectively paying or becoming indebted for \$128.7 million since these wars' inception in 2001, (National Priorities Project) not including funds requested in 2010, of their limited financial resources for such warfare, and

WHEREAS, this warfare creates great and unnecessary harm to the people of Iraq, Afghanistan and Pakistan and to U.S. military personnel and their families, and

WHEREAS, the education services, medical care, housing, other essential public services, infrastructure repairs, and family and private sector financing in Amherst and throughout the Commonwealth of Massachusetts have been substantially reduced in order for an excessive portion of available financial resources to be diverted from the constructive economy to unnecessary warfare,

THEREFORE BE it resolved that Amherst Special town Meeting 2010:

- 1) Call for a public discussion in the Town of Amherst about the cost of the wars in Iraq and Afghanistan/Pakistan to our community to education, transportation, security and basic citizen needs, and
- 2) Call on Representative John Olver and Senators John Kerry and Scott Brown to:
 - a) oppose all legislation brought before the U.S. House of Representatives and Senate that provides further funding for the U.S. warfare and military occupation in Iraq, Afghanistan and Pakistan (while still supporting funds for reconstruction), and
 - b) take strong and forceful action to influence the full House of Representatives to terminate funding of these military occupations, and
 - c) sign onto and support resolutions that prohibit any increase in the number of troops in Afghanistan.

And be it further resolved that copies of this Resolution be sent to the President of the United States, the United States Senators from Massachusetts, and the United States Representative from Massachusetts' First District.

Action taken 11/10/2010.

The business of the warrant having been completed, at 10:47 p.m. the meeting voted to dissolve. 174 town meeting members were checked in.

Attest:
Sandra J. Burgess
Town Clerk

**RESULTS
ANNUAL TOWN ELECTION
March 29, 2011**

In accordance with the Warrant, the polls were opened at 7:00 a.m. and closed at 8:00 p.m. The voters cast their ballots in their respective precincts. The results were as follows:

MODERATOR	1	2	3	4	5	6	7	8	9	10	TO-
Harrison L. Gregg	73	121	78	68	90	158	111	211	165	62	1137
All Others	2	0	1	0	2	4	2	4	2	1	18
Blanks	16	22	20	10	32	53	32	65	45	25	320
TOTAL	91	143	99	78	124	215	145	280	212	88	1475

SELECT BOARD

Stephanie J. O’Keeffe	72	113	74	67	86	151	106	207	160	54	1090
Diana B. Stein	67	104	73	60	87	141	99	203	164	68	1066
@David T. Keenan	0	0	0	0	1	1	4	0	0	0	6
All Others	1	2	1	0	1	2	1	5	1	5	25
Blanks	42	67	50	29	73	135	80	145	99	49	769
TOTAL	182	286	198	156	248	430	290	560	424	176	2950

SCHOOL COMMITTEE

Katherine G. Appy	71	110	82	63	92	152	104	216	173	70	1133
All Others	1	10	2	3	5	24	11	16	6	0	78
Blanks	19	23	15	12	27	39	30	48	33	18	264
TOTAL	91	143	99	78	124	215	145	280	212	88	1475

JONES LIBRARY TRUSTEE

Michael Wolff	35	69	42	32	72	100	61	131	87	36	665
Patricia G. Holland	61	61	46	21	54	97	55	140	87	38	660
Christopher J. Hoffmann	40	96	56	60	61	122	81	152	112	52	832
All Others	0	0	1	0	0	0	1	0	2	1	5
Blanks	46	60	53	43	61	111	92	137	136	49	788
TOTAL	182	286	198	156	248	430	290	560	424	176	2950

ELECTOR, OLIVER SMITH WILL

John W. Coull	71	109	69	65	80	142	96	182	150	53	1017
All Others	1	1	0	0	0	0	1	3	0	1	7
Blanks	19	33	30	13	44	73	48	95	62	34	451
TOTAL	91	143	99	78	124	215	145	280	212	88	1475

	1	2	3	4	5	6	7	8	9	10	TOTAL
HOUSING AUTHORITY											
Judy H. Brooks	67	104	66	58	84	148	104	193	143	54	1021
All Others	1	0	0	0	0	0	2	3	1	1	8
Blanks	23	39	33	20	40	67	39	84	68	33	446
TOTAL	91	143	99	78	124	215	145	280	212	88	1475

REDEVELOPMENT AUTHORITY

Aaron A. Hayden	42	98	52	63	70	128	96	181	115	35	880
Vincent J. O'Connor	48	38	41	10	46	72	38	80	81	50	504
All Others	0	0	0	0	0	1	0	0	0	0	1
Blanks	1	7	6	5	8	14	11	19	16	3	90
TOTAL	91	143	99	78	124	215	145	280	212	88	1475

Precinct I, three years (8)

Louis S. Greenbaum	55	Vincent J. O'Connor	64	Melissa H. Perot
Diane A. Westfall	68	Eric N. Nazar	60	Hilda B. Greenbaum
Kenton F. Tharp	67	Patricia G. Holland	64	*John P. Kuzmiski

Precinct II, three years (8)

Barbara M. Levine	100
Adrienne Levine	99
John W. Coull	110
James W. Pistrang	110
Barbara C. Ford	107
Daniel E. Clapp	98
Isaac BenEzra	98

Precinct II, two years (1)

@Roy A. Johnson
@Christopher E. Riddle

Precinct II, one year (2)

2 Edward J. Mientka
1 @Mira Menon

A second vacancy for a two-year term occurred when Sean Eddings resigned. Resignation occurred after the deadline to file nomination papers. The vacancy was filled by the write-in candidate receiving the next highest number of votes.

Precinct III, three years (8)

Peter J. Gray-Mullen	63	Karen Marie Harrington	62	Lawrence Orloff
Nancy N. Gregg	70	Jacqueline C. Churchill	67	@Sonya Bergquist
Nancy M. Buffone	61	Patrick MacWilliams	48	

Precinct IV, three years (8)

Jon Stuart Nelson 40
 Kay J. Moran 68
 Baer Tierkel 65
 George E. Ryan 64
 Alan W. Powell 39
 @Katharine E. Troast 2

Precinct IV, two years (2)

Doris R. Holden

Precinct IV, one year (2)

Mark L. Parent 60
 Naomi Ossar 42

Precinct V, three years (8)

Barry H. Federman 71
 Patricia K. Church 71
 Jane W. Price 67
 Nancy H. Pagano 78
 Kevin J. Eddings 63
 Kevin J. Noonan 71
 James Burgess Oldham 74
 Andrew J. Bohne 46

Precinct V, two years (1)

Mary L. Wentworth 88

Precinct V, one year (2)

Katharine M. McGovern 70
 Robert S. Saul 68

Precinct VI, three years (8)

*Kevin H. Vanderleeden 42
 Marilyn Hecht Blaustein 122
 Elizabeth R. Welsh 96
 Diana R. Spurgin 101
 *Douglas Wesley Slaughter 70
 Jeffrey D. Blaustein 103
 *Richard D.W. Cairn 65

Richard B. Spurgin 89
 H. Oldham Brooks 82
 Gordon A. Freed 90
 *Constance E. Kruger 77
 Faythe E. Turner 93
 *Julia C. Marcus 80

Precinct VI, one year (2)

Paul M. DiBenedetto 13
 Amy A. Brodigan 6
 13
 4

Precinct VII, three years (8)

Ernest J. Dalkas 79
 David T. Keenan 51
 James D. Brassord 74
 Kenneth R. Hoffman 66

Alice C. Swift
 Harvey D. Allen
 Adrienne M. Terrizzi
 @Karen Marie Lennon

93
 71
 91
 8

Precinct VIII, two years (2)

Marylou Theilman 91
 George Jeffrey Bohne 74

Precinct VIII, three years (8)

Mary Streeter 144
 Kathleen G. Traphagen 107
 Jenifer E. McKenna 140
 Lise N. Halpern 131
 *Amy L. Vickers 98
 *Michael S. Hutton-Woodland 72

*Bernard R. Kubiak
 Ruth F. Hooke
 John W. Kick
 *Janet R. Daisley
 Glen P. Bertrand
 Elaine Fronhofer

79
 117
 100
 89
 115
 107

Precinct VIII, one year (1)

*Katharine Allan Zobel 95
 Barry L. Roberts 128

Precinct IX, three years

(8)	89	Denise Renee Barberet
Dade Singapuri	99	*Jeremy Austin
Felicity P. Callahan	122	*Gerald G. Guidera Jr.
Otto L. Stein	77	Jessica B. Wilkinson
*Robert K. Boutilier	74	Emily G. Lewis
*Robert J. Crowner	23	*Joan L. Burgess
*Daniel Edward Melick	64	Jonathan P. O'Keeffe
*Steven G. Randall	8	Pamela S. Rooney
*Alexander D. Bryzek-Baker		

Precinct IX, one year

(1)	72
*Nancy E. Higgins	88
Stephen D. Schreiber	

Precinct X, three years (8)

Lewis C. Mainzer	64	Jan Eidelson	54	Hwei-Ling Greeney	51
Stephen R. Braun	50	Richard N. Bentley	53	Nancy M. Gordon	54
Brett J. Butler	44	Elissa H. Rubinstein	58		

@ Write-In Candidate

* Defeated

<u>Precinct</u>	<u>Ballots Cast</u>	<u>Number Registered</u>	<u>PM Return Time</u>	<u>% Turnout</u>
1	93	1,554	9:13	5.98
2	143	1,500	9:04	9.53
3	99	1,303	9:28	7.6
4	78	1,452	9:25	5.37
5	124	1,509	9:26	8.22
6	215	2,236	8:58	9.62
7	145	1,953	9:15	7.42
8	280	2,403	8:59	11.65
9	212	2,107	8:33	10.06
10	88	1,416	9:27	6.21
TOTAL	1,477	17,433		8.47

The public announcement was made at 9:52 p.m. on March 29, 2011. 1,477 ballots were cast, representing 8.47% of the 17,433 voters registered.

Attest:

Sandra J. Burgess
Town Clerk

RESULTS
ANNUAL TOWN MEETING
May 2, 4, 9, 11, 16, 18, 23 and 25, 2011

The meeting was televised by Amherst Community Television and shown on the government channel.

The 253rd Annual Town Meeting was called to order by the Moderator, Harrison Gregg at 7:38 p.m. There were 251 town meeting members. 126 checked in and a quorum was declared. The call and the return of the warrant were read by Town Clerk, Sandra J. Burgess.

The Town Moderator was sworn to the faithful performance of his duties. The Moderator swore in newly elected and re-elected town meeting members.

The Moderator recognized Ms. Katherine Appy on her election to the School Committee, and Ms. Stephanie O'Keeffe and Ms. Diana Stein on their re-election to the Select Board.

ARTICLE 1. Reports of Boards and Committees (Select Board)

VOTED unanimously to hear those reports of Town officers, the Finance Committee, and any other Town boards or committees which are not available in written form.

Action taken on 5/2/2011

Margaret Roberts gave a report for the Town Meeting Coordinating Committee.

ARTICLE 2. Transfer of Funds – Unpaid Bills (Select Board)

DISMISSED [To see if the Town will, in accordance with Chapter 44, Section 64, of the Massachusetts General Laws, appropriate and transfer a sum of money to pay unpaid bills of previous years.]

Action taken on 5/2/2011

ARTICLE 3. Optional Tax Exemptions (Select Board)

VOTED unanimously to authorize a maximum additional exemption of up to 100 percent for taxpayers qualifying for exemption under Chapter 59, Section 5, Clauses 17D, 22, 37A, or 41C of the Massachusetts General Laws.

Action taken on 5/2/2011

ARTICLE 4. Adjust MGL c59 §5K Senior Property Tax Work-off Exemption (Select Board)

VOTED to adjust the exemption provided for under Chapter 59, Section 5K, by allowing an approved representative, for persons physically unable, to provide such services to the town.

Action taken on 5/2/2011

ARTICLE 5. Right of Way and Easements Boltwood Place (Select Board)

VOTED unanimously to authorize the Town Manager to grant to Western Massachusetts Electric Company a permanent easement on portions of two Town-owned parcels of land located off of Main Street, which parcels are described more particularly in deeds recorded with the Hampshire Registry of Deeds in Book 2134, Page 287 and Book 6171, Page 321, and which portions to be subject to the easement are shown on the plan entitled “‘Proposed Easement’ Plan of Land in Amherst, Massachusetts, prepared for Archipelago Investments LLC,” dated April 5, 2011, prepared by Harold L. Eaton and Associates, Inc., on file with the Town Clerk, for the transmission of intelligence and the furnishing of electric service to the property located at 43-51 North Pleasant Street and shown on Assessors Map 14A as Parcel 48, on such terms and conditions, and for such consideration, which may be nominal consideration, as the Town Manager deems appropriate.

Action taken on 5/2/2011

ARTICLE 6. Acquire Right of Way - Meadow Street Reconstruction (Select Board)

VOTED to authorize the Select Board to acquire, by gift, purchase or eminent domain, for public way purposes in connection with the Meadow Street reconstruction project, the fee to and/or related construction, drainage, utility

and other easements in, on, under and across certain parcels of land, all as shown on the plans entitled "Reconstruction and related work on Meadow Street," prepared by the Amherst Department of Public Works, which are on file with the office of the Town Clerk.
Action taken on 5/2/2011

ARTICLE 7. Acquire Right of Way and Easements - Main Street Reconstruction (Select Board)
VOTED unanimously to authorize the Select Board to acquire, by gift, purchase or eminent domain, for public way purposes in connection with the Main Street reconstruction project, the fee to and/or related construction, drainage, utility and other easements in, on, under and across certain parcels of land, all as shown on the plans entitled "Reconstruction and related work on Main Street," prepared by the Amherst Department of Public Works, which are on file with the office of the Town Clerk.
Action taken on 5/2/2011

ARTICLE 8. Acquire Rights of Way and Easements - Wildwood Safe Routes to School Project (Select Board)
VOTED unanimously to authorize the Select Board to acquire, by gift, purchase or eminent domain, for public way purposes in connection with the Wildwood Safe Routes to School Project, the fee to and/or related construction, drainage, utility and other easements in, on, under and across certain parcels of land, all as shown on the plans entitled "Wildwood Safe Routes to School Plan," prepared by the TEC, Inc., which are on file with the office of the Town Clerk.
Action taken on 5/2/2011

ARTICLE 9. Authorization for Compensating Balances (Select Board)
VOTED unanimously to accept the provisions of Chapter 44, Section 53F of the Massachusetts General Laws, which authorize the Treasurer to enter into written agreements with banking institutions pursuant to which the Treasurer agrees to maintain funds on deposit in exchange for banking services.
Action taken on 5/2/2011

ARTICLE 10. FY 2011 Budget Amendments (Finance Committee)
VOTED to amend the action taken under Article 9 of the 2010 Annual Town Meeting – Fiscal Year 2011 Operating Budget by increasing the appropriations and the amounts to be raised by taxation for Community Services by \$100,000, and to meet such increased appropriation by decreasing the appropriation and the amount to be raised by taxation for Public Safety by \$100,000.
Action taken on 5/2/2011

DISMISSED [To see if the Town will amend the action taken under Article 10 of the 2010 Annual Town Meeting (Reserve Fund) and appropriate and transfer a sum of money from Free Cash in the Undesignated Fund Balance of the General Fund.]
Action taken on 5/2/2011

ARTICLE 11. Retirement Assessment (Select Board)
VOTED unanimously to raise and appropriate \$3,256,793 for the Hampshire County Retirement System assessment.
Action taken on 5/2/2011

ARTICLE 12. Regional Lockup Assessment (Select Board)
VOTED to raise and appropriate \$31,323 for the Hampshire County Regional Lockup Facility assessment.
Action taken on 5/2/2011

ARTICLE 13. Amherst-Pelham Regional School District Assessment Method (Amherst-Pelham Regional School Committee)
VOTED to approve following the existing Amherst-Pelham Regional School District Agreement for allocating the total amount to be contributed by each member town of the District for Fiscal Year 2012 as required by Section VI of the Regional Agreement.
Action taken on 5/2/2011

The Moderator swore in the following town meeting members as tellers for the duration of the May 2, 2011 Annual Town Meeting: Nancy Gordon, Hilda Greenbaum, Nonny Burack, James Pistrang, James Scott, and H. Oldham Brooks.

ARTICLE 14. FY 2012 Operating Budget (Finance Committee)

COMMUNITY SERVICES

VOTED Yes 92; No 75 to raise and appropriate \$1,575,402 for Community Services.

Original vote taken on 5/2/2011

[A motion to increase the amount to \$1,580,152 was defeated by a Tally Vote: Yes 64, No 100]

Reconsideration on 5/9/2011

On May 9, 2011 a motion was made to reconsider the Community Services functional area. The motion to reconsider passed by a tally vote, Yes 93, No 72.

Upon reconsideration Town Meeting voted to increase the Community Services budget by \$65,250. A tally vote was taken on the motion to increase. Article 14 – Community Services reflects the increased amount voted.

At 10:40 pm on May 2, 2011, town meeting voted to adjourn to Wednesday, May 4, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 185 town meeting members were checked in.

The May 4, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:44 p.m. 126 town meeting members were checked in.

Ms. O’Keeffe, Chair of the Select Board moved to consider Article 24 on Monday, May 16, at 7:30 p.m. Town Meeting passed the motion.

PUBLIC SAFETY

VOTED unanimously to appropriate \$8,497,470 for Public Safety and that to meet such appropriation \$6,390,108 be raised by taxation and \$2,107,362 be transferred from the Ambulance Receipts Reserved for Appropriation Account.

Action taken on 5/4/2011

PUBLIC WORKS

VOTED unanimously to raise and appropriate \$1,941,230 for Public Works.

Action taken on 5/4/2011

CONSERVATION AND DEVELOPMENT

VOTED to raise and appropriate \$885,862 for Conservation and Development.

Action taken on 5/4/2011

[Several motions were made to decrease the appropriation for Conservation and Development: O’Connor by \$30,000; Franklin by \$51,172; Eddings by \$80,255; and Greeney by \$140,789. Rules of Order for Town Meeting, Section 7, provide that when two or more motions are made with regard to the same subject relating to sums of money, numbers or times, the question shall first be put upon the largest sum or number, and the longest time. Accordingly Town Meeting voted first on the Finance Committee motion. The Finance Committee motion having passed the amendments to decrease the appropriation failed by default.]

At 10:24 p.m. on May 4, 2011, town meeting voted to adjourn to Monday, May 9, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 176 town meeting members were checked in.

The May 9, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:44 p.m. 126 town meeting members were checked in.

Ms. O’Keeffe, Chair of the Select Board, moved to consider Article 20, on Wednesday, May 11, at 7:30 p.m.
Town meeting passed the motion.

A motion was made to reconsider the Community Services functional area. The motion to reconsider passed by a tally vote, Yes 93, No 72.

ELEMENTARY SCHOOLS

VOTED to raise and appropriate \$20,758,598 for the Amherst Elementary Schools.

Action taken on 5/9/2011

At 10:07 p.m. on May 9, 2011, town meeting voted to adjourn to Wednesday, May 11, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 174 town meeting members were checked in.

The May 11, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:57 p.m. 126 town meeting members were checked in.

Town Meeting elected Susan Audette to serve as Temporary Clerk for the May 11, 2011 session of the May 2, 2011 Annual Town Meeting. Ms. Audette was sworn to the faithful performance of her duties by the Moderator, Harrison Gregg.

Town Meeting began with consideration of Article 20 – Community Preservation Act

GENERAL GOVERNMENT

VOTED unanimously to appropriate \$6,091,477 for General Government, that the salary of the Moderator be fixed at \$100, that of the Select Board at \$300 each, that of the Elector under the Oliver Smith Will at \$20, and that to meet such appropriation, \$5,992,262 be raised by taxation and \$99,215 be transferred from the Ambulance Receipts Reserved for Appropriation Account.

Action taken on 5/11/2011

DEBT SERVICE

VOTED unanimously to appropriate \$1,890,852 for payment of the Town’s General Fund indebtedness, and to meet such appropriation \$1,670,157 be raised by taxation, \$175,851 be appropriated and transferred from Community Preservation Fund annual revenues, and \$44,844 be appropriated from Wildwood School Roof Reserved for Debt Service Account.

Action taken on 5/11/2011

REGIONAL SCHOOLS

VOTED to approve the Amherst-Pelham Regional School District operating and capital budget of \$28,214,835 and that the Town raise and appropriate \$13,506,166 as its share of that budget.

Action taken on 5/16/2011

WATER FUND

VOTED unanimously to appropriate \$3,685,975 for the Water Fund and that to meet such appropriation \$3,441,432 be made available from Water Fund revenues of the current year and \$244,543 be transferred from Water Fund Surplus.

Action taken on 5/16/2011

SEWER FUND

VOTED to appropriate \$3,432,604 for the Sewer Fund and that to meet such appropriation \$3,194,205 be made available from Sewer Fund revenues of the current year and \$238,399 be transferred from Sewer Fund Surplus.

Action taken on 5/16/2011

LIBRARY SERVICES

VOTED unanimously to approve the Library Services operating budget of \$2,192,736, and that the Town raise and appropriate \$1,644,736 as its share of that budget.

Action taken on 5/18/2011

SOLID WASTE FUND

VOTED unanimously to appropriate \$549,716 for the Solid Waste Fund and that to meet such appropriation \$537,000 be made available from Solid Waste Fund revenues of the current year and \$12,716 be transferred from Solid Waste Fund Surplus.

Action taken on 5/18/2011

TRANSPORTATION FUND

VOTED to appropriate \$977,045 for the Transportation Fund and that to meet such appropriation \$888,357 be made available from Transportation Fund revenues of the current year and \$88,688 be transferred from Transportation Fund Surplus.

Action taken on 5/18/2011

ARTICLE 15. Reserve Fund (Finance Committee)

VOTED unanimously to raise and appropriate \$100,000 for the Reserve Fund for FY 2012.

Action taken on 5/18/2011

ARTICLE 16. Capital Program – Chapter 90 (Joint Capital Planning Committee)

VOTED unanimously to authorize the expenditure of the sum of \$500,000 of Chapter 90 funds for qualifying purposes and further authorize the Treasurer to borrow in anticipation of reimbursement of these funds from the Commonwealth of Massachusetts.

Action taken on 5/18/2011

ARTICLE 17. Capital Program – Equipment (Joint Capital Planning Committee)

VOTED unanimously to raise and appropriate \$790,604 to purchase, repair, and/or install new or replacement equipment, and to meet such appropriation, \$720,604 be raised by taxation, and \$70,000 be transferred from the Ambulance Receipts Reserved for Appropriation Account.

Action taken on 5/18/2011

ARTICLE 18 Capital Program – Buildings & Facilities (Joint Capital Planning Committee)

VOTED to raise and appropriate \$505,500 to repair and/or improve buildings and facilities, and to meet such appropriation, \$466,500 be raised by taxation, and \$39,000 be appropriated from Overlay Surplus.

Action taken on 5/18/2011

[A motion was made to reduce the amount to be raised and appropriated by \$50,000. In accordance with Section 7 of the Rules of Order for Town Meeting, a vote was first taken on the higher amount. The vote for the higher amount passed and the motion to amend failed by default.]

ARTICLE 19. Capital Program – Bond Authorization Centennial Water Treatment Plant (Joint Capital Planning Committee)

VOTED unanimously to appropriate \$4,000,000 for the purpose of making repairs and improvement to the Centennial Water Treatment Plant, including the extension of a sewer line to the plant, and to meet that appropriation, authorize the Treasurer, with approval of the Select Board, to borrow such amount.

Action taken on 5/18/2011

ARTICLE 20. Community Preservation Act (Community Preservation Act Committee)

A.

1. **VOTED** to appropriate from Community Preservation Act Fund Estimated Revenues a sum of \$70,000 for Community Preservation Act Affordable Housing Purposes Items 1-3, in terms of the Article.

	Project	Total Appropriation	Source of Appropriation
	AFFORDABLE HOUSING		
1	Habitat for Humanity 1 unit to be built on Belchertown Road	\$40,000	\$40,000 from CPA FY12 Estimated Revenues
2	Appraisal and Surveys	\$20,000	\$20,000 from CPA FY12 Estimated Revenues
3	Hawthorne House Feasibility Study (total project \$20,000, \$10,000 from Historic Preservation)	\$10,000	\$10,000 from CPA FY12 Estimated Revenues
	Total Affordable Housing	\$70,000	

Action taken on 5/11/2011

2a. VOTED to appropriate from Community Preservation Act Fund Estimated Revenues a sum of \$20,000 for Community Preservation Act Historic Preservation Purposes, item 4, in terms of the Article.

	HISTORIC PRESERVATION		
4	Consultant to oversee and complete 8 or more projects previously funded by CPA funds	\$20,000	\$20,000 from CPA FY12 Estimated Revenues

Action taken on 5/11/2011

	HISTORIC PRESERVATION		
5	Hawthorne House Feasibility Study (total project \$20,000, \$10,000 from Affordable Housing)	\$10,000	\$10,000 from CPA FY12 Estimated Revenues
6	Amherst Historical Society Structural and Feasibility Study	\$35,000	\$35,000 from CPA FY12 Estimated Revenues
7	Hope Church Roof Rehab, Foundation and Drainage Work	\$45,000	\$45,000 from CPA FY12 Estimated Revenues
8	North Amherst Community Farm Repairs for stabilization of Large Barn, Structural Evaluation and Feasibility Study	\$25,000	\$25,000 from CPA FY12 Estimated Revenues
9	Jones Library Conservation of Historic Paintings	\$15,000	\$15,000 from CPA FY12 Estimated Revenues
10	North Amherst Library Foundation Restoration	\$10,000	\$10,000 from CPA FY12 Estimated Revenues
11	Jones Library Chimney Restoration	\$113,000	\$113,000 from CPA FY12 Estimated Revenues
12	Kimball House Historic Preservation 575 North East street (5 th and final year)	\$25,600	\$25,600 from CPA FY12 Estimated Revenues
13	Archival Material Conservation & Restoration: Town Clerk - special collections	\$10,000	\$10,000 from CPA FY12 Estimated Revenues
	Total Historic Preservation	\$288,600	

Action taken on 5/11/2011

VOTED to appropriate from Community Preservation Act Fund Estimated Revenues a sum of \$50,000 for Community Preservation Act Recreation Purposes item 14, in terms of the Article.

	RECREATION		
14	Multi-use Bike Path Connecting UMass with North Amherst Feasibility Study	\$50,000	\$50,000 from CPA FY 12 Estimated Revenues
	Total Recreation	\$50,000	

Action taken on 5/11/2011

VOTED unanimously to appropriate from Community Preservation Act Fund Estimated Revenues a sum of \$1,500 for Community Preservation Act Administrative Purposes, item 15 in terms of the Article.

	ADMINISTRATIVE		
15	To Fund CPC Administrative Expenses.	\$1,500	\$1,500 from CPA FY 12 Estimated Revenues
	Total Administrative	\$1,500	

Action taken on 5/11/2011

B. VOTED unanimously to appropriate from Community Preservation Act Fund Balance a sum of \$200,000 as a “Budgeted Reserve” for Community Preservation Act purposes.

Action taken on 5/11/2011

C. VOTED unanimously to: (a) authorize the Select Board to acquire from John J. and Susan M. Stosz, by gift, purchase, or eminent domain, a portion of a certain parcel of land located north of Market Hill Road , and identified on Assessors Map 3C Parcel 19 of the Town Cadastre, which portion contains 17 acres, more or less, and shall be under the care, custody, management and control of the Amherst Conservation Commission in accordance with M.G.L. Chapter 40, Section 8C for conservation and passive recreation purposes, and subject to certain easements and/or other rights to be reserved by the owners (b) appropriate the sum of \$150,000 for the acquisition of said parcels and costs related thereto from the Community Preservation Act fund balance, and further authorize the Treasurer, Town Manager, Select Board and/or the Conservation Commission to enter into and execute any and all agreements and instruments on behalf of the Town as may be necessary or appropriate to effectuate said acquisition; and (d) further, authorize the Select Board and/or the Conservation Commission to convey a perpetual conservation restriction on said parcels in accordance with M.G.L. Chapter 184, as required by M.G.L. Chapter 44B, Section 12(a).

Action taken on 5/11/2011

Ms. O’Keeffe nominated James Pistrang to serve as Moderator Pro Tem for the duration of the May 16, 2011 session. No other nominations being received, Ms. O’Keeffe cast a ballot for James Pistrang.

At 10:02 p.m. on May 11, 2011, town meeting voted to adjourn to Monday, May 16, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 165 town meeting members were checked in.

The May 16, 2011 session was called to order by the Moderator Pro Tem, James Pistrang, at 7:38 p.m. 126 town meeting members were checked in.

James Pistrang, Moderator Pro Tem, was sworn to the faithful performance of his duties.
Town meeting resumed with consideration of Article 24.

ARTICLE 21. Authorize Transfer of Land at Wentworth Farm (Conservation Commission)

VOTED unanimously to transfer the care, custody and control of two certain parcels of land located on Old Farm Road, which parcels are a portion of the land described in a deed recorded with the Hampshire Registry of Deeds in Book 3222, Page 13 and approximately shown as Parcels A and B on a sketch plan entitled "Wentworth Farm" and on file with the Town Clerk, from the School Committee and from any other board currently having custody of said parcels for school and general municipal purposes to the Conservation Commission for the following purposes: (a) to transfer the parcel shown on said plan as Parcel A for open space purposes and for the purpose of conveying an agricultural preservation restriction thereon, as required by the 2007 Mitigation Agreement entered into between the Town and the Department of Agricultural Resources, and to authorize the Conservation Commission to convey said restriction on such terms and conditions as the Conservation Commission deems appropriate, and (b) to transfer the parcel shown on said plan as Parcel B for conservation purposes.

Action taken on 5/18/2011

At 10:03 p.m. on May 18, 2011, town meeting voted to adjourn to Monday, May 23, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 152 town meeting members were checked in.

The May 23, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:46 p.m. 126 town meeting members were checked in.

Town Meeting resumed with consideration of Article 22 – Free Cash.

ARTICLE 22. Free Cash (Finance Committee)

VOTED to appropriate and transfer \$65,250 from Free Cash in the Undesignated Fund Balance of the General Fund to balance the 2012 Fiscal Year Budget.

Action taken on 5/23/2011

ARTICLE 23. Stabilization Fund (Finance Committee)

VOTED unanimously to DISMISS [To see if the Town will appropriate and transfer a sum of money from the Stabilization Fund to balance the Fiscal Year 2012 Budget.]

Action taken on 5/23/2011

ARTICLE 24. Authorize Term of Lease for Old Landfill (Select Board)

VOTED to authorize the Town Manager to lease all or any portion of the Old Landfill across Belchertown Road from the existing Transfer Station from time to time by one or more leases for such term of years up to 30 years and for such consideration as the Town Manager shall determine, for the purpose of installing and operating thereon a solar array for electric power generation and distribution, and to authorize the Town Manager to grant such easements in, on, under and across over said land for utility and access purposes, as reasonably necessary to install and operate such a solar array, and further to authorize the Town Manager to enter into a power purchase agreement with any lessee of such property to purchase all or a portion of the electricity production of the solar array and to enter into an agreement with the local utility to participate in the Net Metering program pursuant to the Acts of 2008, c. 169, §78, the so-called Green Communities Act, as may be amended.

Action taken on 5/16/2011

[Two motions to amend Article 24 were defeated]

At 10:07 p.m. on May 16, 2011, town meeting voted to adjourn to Wednesday, May 18, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 196 town meeting members were checked in.

The May 18, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 7:46 p.m. 126 town meeting members were checked in.

Town Meeting resumed with consideration of Article 14 – Library Services.

ARTICLE 25. Authorize West Street Land Acquisition - Community Development Block Grant
(Community Development Committee - CDC)

VOTED unanimously to (1) authorize the Select Board to acquire, by gift, purchase or eminent domain, for affordable housing purposes, a parcel of land located on West Street, identified on Assessors Map 22B as Lot 1, and being the second tract of land described in a deed recorded with the Hampshire Registry of Deeds in Book 990, Page 481, owned by Dorothy A. Lashway, Roberta C. Britt, Beverly E. Savage, and Leonard R. Hebert, (2) authorize the Town Manager and/or his designee to file on behalf of the Town any and all applications for funds in any way connected with the scope of this acquisition and accept gifts of funds therefor; and (3) further, authorize the Select Board, the Town Manager, and/or such other boards as may be appropriate, to enter into all agreements and execute any and all instruments to effectuate said purchase.

Action taken on 5/23/2011

ARTICLE 26. Bylaw Amendment – Wetlands Protection (Conservation Commission)

VOTED to amend Section V and Section VI of the Town of Amherst Wetlands Protection Bylaw, adding the language in bold italics, as follows:

Amend Section V. as follows:

Any person filing a permit application or a RFD with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested), ***or certificates of mailing***, or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water.

Amend Section VI. as follows:

Any person filing a permit application or RFD with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested), ***or certificates of mailing***, or hand delivery, to the zoning board, planning board, health inspections, town engineer and building commissioner.

Action taken on 5/23/2011

ARTICLE 27. Bylaw - Adoption of Stretch Energy Code (Select Board)

VOTED unanimously to adopt the “Stretch Energy Code” set forth in the State Building Code at 780 CMR 120.AA (i.e., Appendix 120.AA), as may be amended from time to time, and to amend the Town of Amherst General Bylaws by inserting a new Article entitled “Stretch Energy Code” in Article IV, Regulations Relating to Real Estate and Real Estate Users, as set forth below:

Stretch Energy Code

1. Adoption. The Town of Amherst has adopted the provisions of 780 CMR 120.AA (i.e., Appendix 120.AA of the State Building Code or the “Stretch Energy Code”), as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00, 34.00, 61.00 and 93.00.

2. Purpose. The purpose of the Stretch Energy Code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.

Action taken on 5/23/2011

The Moderator swore in the following town meeting members as tellers for the: Robert Kusner, Judy Simpson, and Adrienne Terrizzi.

ARTICLE 28. Zoning Amendment – Duplexes (Planning Board)

DEFEATED Yes 81, No 49 (failed to obtain two-thirds vote)

[To see if the Town will amend Section 3.321 and Article 12 by deleting the lined out language and adding the language in ***bold italics***, as follows:

Amend Section 3.321, as follows

3.321 Two family detached dwelling (***duplex***)

3.3210 Class I Duplex

Zoning Districts

R-O

R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
------	-----	------	-----	-----	-----	-----	------	-----	-----	----	----	-----	-----

SP	SP	SPR	SPR	N	N	N	N	SPR	N	N	N	N	N
----	----	-----	-----	---	---	---	---	-----	---	---	---	---	---

(N) (N)

Standards & Conditions

For a Class I Duplex, one (1) or both of the two (2) dwelling units shall be occupied by a resident owner.

3.3211 Class II Duplex

Zoning Districts

R-O

R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
------	-----	------	-----	-----	-----	-----	------	-----	-----	----	----	-----	-----

<i>SP</i>	<i>SP</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>			
	<i>SP</i>												
	<i>SP</i>												

(N) (N)

Standards & Conditions

In a Class II Duplex, neither dwelling unit is occupied by a resident owner. The Special Permit Granting Authority or Permit Granting Board, as applicable, may require the presence of an on-site resident manager as a condition of approval.

[For Sections 3.3210 and 3.3211, inclusive]

In all districts, the Special Permit Granting Authority or Permit Granting Board, as applicable, shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of a new two family detached dwelling or the addition of a single new dwelling unit to an existing single family residence such that a two family detached dwelling (***duplex***) is created.

Where the two dwelling units are arranged side by side, said units shall either share at least one common wall abutting habitable space on both sides, or, the Special Permit Granting Authority or Permit Granting Board, as applicable, may allow a duplex where the two units do not share a common wall abutting habitable space, but are instead connected structurally and continuously by a shared foundation, walls, and roof. The Special Permit Granting Authority or Permit Granting Board may make such an allowance only following a review and determination that the design of the proposed duplex is compatible with the architecture of the surrounding neighborhood.

A. Amend Article 12, as follows:

12.12 Dwelling Unit, *Two Family Detached* (Duplex): A *single residential* building containing two dwelling units, arranged *vertically* one above the other, or *horizontally* side by side, each with a separate entrance.]

Action taken on 5/23/2011

ARTICLE 29. Zoning Amendment – Residential Parking Requirements (Planning Board)

DEFEATED Yes 78, No 42 (failed to obtain two-thirds vote)

[To see if the Town will amend Sections 7.00 and 7.1 of the Zoning Bylaw, as follows:

A. Amend Section 7.00 by reorganizing sentences, deleting the ~~lined-out~~ language, and adding the language in *bold italics* as follows:

7.00 In all districts except Educational Districts, off-street parking spaces shall be provided and maintained in connection with the construction, conversion or increase in *dwelling* units or dimensions of buildings, structures or use. *The provisions of this section shall apply to parking spaces for cars, vans, light trucks, and similar vehicles used predominantly for personal transportation. Parking for commercial vehicles or vehicles used for private or public transit shall be governed under the provisions of Sections 7.1, 7.3 and 7.5. ~~such~~ Except as may be otherwise required by the Permit Granting Board or Special Permit Granting Authority, as applicable, parking spaces ~~to~~ shall be provided in at least the following minimum amounts.*

7.000 For dwellings, including apartments:

7.0000 Residential parking required:

1. *In the B-G, B-L abutting B-G, B-VC, B-N, R-G and R-VC districts - One (1) parking space per dwelling unit, except in the Municipal Parking District or as may be otherwise provided under this Bylaw.*
2. *In all districts where the following residential uses are allowed - One (1) parking space per dwelling unit for accessory supplemental apartments, caretaker/manager apartments accessory to commercial uses, town houses, apartments, and buildings containing dwelling units in combination with stores or other permitted business or commercial uses.*
3. *In the R-N, R-O, and R-LD Districts - ~~Two~~ (2) parking spaces for each dwelling unit, **except as provided for under 2., above.***

*7.0001 Parking spaces for ~~C~~cars or similar vehicles parked in the front set back shall be on a parking paved surface such as **concrete, bituminous asphalt, masonry pavers, oil and stone,** gravel, trap rock, or a similar material (see Section 7.100).*

*7.0002 In any residential district, ~~There~~ shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. **Any such parking shall be in marked or delineated parking spaces on paved surfaces and located so as to not obstruct or unreasonably constrict access for regular use and emergency vehicles.***

B. Amend Section 7.1 by deleting the ~~lined-out~~ language and adding the language in *bold italics*, by adding a new Section 7.100, and by renumbering the remaining sections accordingly, as follows:

SECTION 7.1 DESIGN STANDARDS AND LANDSCAPE STANDARDS

The purposes of these design and landscaping requirements are to provide for: the safe and efficient flow of pedestrian and vehicular traffic; the separation of parking areas from abutting streets; visual relief from expanses of unbroken blacktop and vehicles; proper drainage and snow removal; and general visual enhancement of parking areas. Residential uses of four or fewer units shall be exempt from Sections ~~7.100~~ **7.101** and ~~7.101~~ **7.102**.

7.10 Design Standards

7.100 Paving: *For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.*

~~7.100~~ **7.101** Slope: Parking areas used for parking and vehicle maneuvering shall have grades not to exceed five percent slope.

Driveways used exclusively for ingress or egress or interior parking lot circulation shall have slopes not exceeding 12 percent except within 30 feet of the road, in which case the slope shall not exceed 5 percent.

~~7.101~~ **7.102** Set back from buildings: except for parking within an enclosed structure, no parking space shall be located within eight feet of a building wall. No access aisle, entrance or exit driveway shall be located within five feet of a building. Loading docks are exempt from this requirement.

~~7.102~~ **7.103** Dimensions, **Marking & Delineation:** Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas. The Zoning Board of Appeals (SP) or the Planning Board (SPR) may allow, upon application, small car parking spaces (8 feet x 16 feet) to be substituted for up to fifty percent of the standard parking spaces. Compact parking spaces shall be designated by clearly visible signs.

In all parking areas of 8 or more parking spaces, individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces.

Curb radii, driveway width, and other such dimensions shall comply with the "Street and Site Work Construction Standards", adopted by the Select Board, as such standards may be amended, unless otherwise specified in Section 7.1, Design Standards and Landscape Standards.

Ramps between parking areas of different elevations shall not exceed 12 percent slope, with a maximum 5 percent transition slope for a minimum length of 20 feet at the upper and lower end of the ramp slope. All parking plans involving ramps shall be accompanied by profiles showing the ramp, ramp transitions, and overhead and wall clearances.

~~7.103~~ **7.104** Lighting: adequate lighting shall be provided for all parking areas of ~~10~~ **8** spaces or more if these areas are to be used at night. ~~Any illumination, including security lighting, shall be arranged so as to reflect away from adjoining properties and rights of way. Residential projects containing eight or fewer dwelling units are exempt from 7.103.~~ ***All exterior site lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see. Adjacent properties shall be protected from light intrusion through the use of cut-off luminaries, light shields, lowered height of light poles, screening or similar solutions. All exterior site lighting shall be kept extinguished outside of normal hours of use, except for lighting necessary for site security and the safety of employees and visitors, which lighting shall be activated and controlled through motion sensors or similar technology.***

7.105 Entrance and exit driveways: for parking areas containing fewer than 5 spaces, the minimum width of entrance and exit drives shall be 10 feet wide for one-way use and 18 feet wide for two-way use. For facilities containing five or more spaces, such drives shall be a minimum of 10 feet wide for one-way use and 18 feet wide for two-way use. The minimum curb radius shall be 15 feet. The maximum width of such driveways at the property line shall be 24 feet. The permit granting board may modify these width and radius limitations to facilitate traffic flow and safety.

Driveways shall be located and designed so as to minimize conflict with traffic and provide clear visibility and sight distances for the observation of approaching pedestrian and vehicular traffic. The design and layout of driveways and circulation serving parking areas of 5 or more spaces shall prevent vehicles from backing into a street in order to exit the site. Circulation design, layout, and signs associated with non-residential uses shall direct exiting vehicles in a safe and convenient manner toward main thoroughfares and away from secondary streets passing through adjacent residential neighborhoods. No portion of the driveway at the edge of the street pavement shall be closer than 75 feet from an intersection, unless allowed by the Special Permit Granting Authority or Permit Granting Board.]

Action taken on 5/23/2011

At 10:25 p.m. on May 23, 2011, town meeting voted to adjourn to May 25, 2011 at 7:30 p.m. in the auditorium of the Amherst Regional Middle School. 147 town meeting members were checked in.

The May 25, 2011 session was called to order by the Town Moderator, Harrison Gregg, at 8:00 p.m. 126 town meeting members were checked in.

ARTICLE 30. Zoning Amendment – Watershed Protection (WP) District Lot Coverage (Planning Board)

VOTED unanimously to amend Section 6.18 and Table 3, Dimensional Regulations and footnotes of the Zoning Bylaw by adding the language in ***bold italics***, as follows:

Amend Section 6.18, as follows:

6.18 Maximum Lot Coverage

Maximum lot coverage shall include the percentage of a lot covered in the manner described in Section 6.17, Maximum Building Coverage, plus that portion of a lot covered by driveways, parking areas, walkways, tennis courts, swimming pools or other similar surfaces.

For the purposes of this Bylaw, all such surfaces, whether constructed of impermeable materials (i.e., concrete, bituminous asphalt, oil and stone and the like) or constructed of permeable materials (i.e., gravel, peastone and the like) shall be included in the calculation of maximum lot coverage.

In the Watershed Protection (WP) overlay district, no use of land shall result in the rendering impermeable of more than 15% of the total area of any lot, or more than 20% with artificial recharge, or a total of 2,500 square feet, whichever is greater.

- B. Amend Table 3, Dimensional Regulations, by adding o. as a superscript to the title of Maximum Lot Coverage (%) in Table 3, and adding the following new text to the Footnotes, as follows:

o. *See Section 6.18.*

Action taken on 5/25/2011

ARTICLE 31. Zoning Amendment – Permit Submission Requirement
(Zoning Bylaw - Planning Board)

VOTED unanimously to amend Section 11.220 by deleting the lined out language and adding the language in ***bold italics***, as follows:

11.220

An applicant for site plan review shall file ***with the Planning Department*** an application form, fee, ~~six~~ ***the required number of*** copies of the site plan, and any additional information as may be required, ~~with the Planning Department~~ ***in the Planning Board's Rules and Regulations***. A copy of the application shall be filed with the Town Clerk ~~by the applicant~~.

Action taken on 5/25/2011

ARTICLE 32. Zoning Amendment – Filling of Land (Planning Board)

VOTED by a declared two-thirds vote to amend Sections 3.12 and 5.10 of the Zoning Bylaw, by deleting the lined out language and adding the language in ***bold italics***, as follows:

A. Amend Section 3.12, as follows:

3.12 Earth Removal and Filling of Land

- 3.121 Any application to the Zoning Board of Appeals for a Special Permit, or to the Planning Board for ***Site Plan Review or*** Definitive Subdivision Plan Approval, as specified in Sections 3.1225, 3.1226, 3.374 and 5.10, shall include the following specific information:

3.1211 The location of the proposed excavation or filling;

3.1212 The legal name and address of the owner of the property;

3.1213 The legal name and address of the petitioner;

3.1214 Names and addresses of all abutting property owners including those on the opposite side of any streets;

3.1215 A plan of land involved prepared by a Registered Land Surveyor, showing all manmade features, property lines, vegetative cover, watercourse, drainage swales, soil characteristics and existing topography by five ***two*** foot contours plus a strip 100' wide surrounding said land;

- 3.1216 A plan of land showing five **two** foot contours of the finish grading and drainage of the site with clear identification of the top and toe slopes after the proposed completion of the excavation or filling project;
- 3.1217 The estimated quantity of material to be removed or added and topsoil to be stripped and replaced.
- 3.1218 The proposed form of bond to be used.

B. Amend Section 5.10, as follows

SECTION 5.10 FILLING OF LAND (See Sections 3.121 & 3.122)

Any filling of land accessory to the development of property, which raises the existing grade of any portion of a property 5,000 square feet or more in area by an average of two (2) feet or more, or any such filling which raises the existing grade of any portion of a property 2,000 square feet or more in an area by an average of five (5) feet or more shall require a Special Permit *from the Special Permit Granting Authority authorized to act under the applicable section of the bylaw. Where no other permit is required under this bylaw for the proposed or existing principal use(s) of the property, such filling shall require a Special Permit from the Zoning Board of Appeals. In all cases, such filling shall be* subject to the following conditions:

- 5.100 No slope created by the filling operation shall be finished at a grade in excess of the natural angle of repose of the materials.
- 5.101 All filled areas which are not to be built upon within one (1) year shall, upon completion of the operation, be covered with not less than four (4) inches of loam, brought to the finish grade, seeded and mulched in a satisfactory manner.
- 5.102 No permit for the filling of land shall be issued if such filling will: 1) endanger public health or safety; 2) constitute a nuisance; 3) result in a detriment to the normal use of the adjacent property; 4) cause significant erosion or sedimentation due to improper drainage design or management; or 5) result in traffic hazards in residential areas or excessive congestion, or physical damage on public ways.
- 5.103 In granting a permit for such an accessory use, the ~~Zoning Board of Appeals~~ **Special Permit Granting Authority** may impose reasonable requirements on grading, seeding and planting, barriers needed for public safety, control of erosion and drainage and other appropriate aspects of the use.
- 5.104 The ~~Zoning Board of Appeals~~ **Special Permit Granting Authority** may require a suitable performance bond or other security adequate to ensure satisfactory compliance with provisions of this section.

Action taken on 5/25/2011

ARTICLE 33. Petition - Zoning Bylaw – Accessory Livestock or Poultry (Gerber et al)
VOTED by a declared two-thirds vote to amend Section 5.014 and Article 12, of the Zoning Bylaw, by deleting the lined out language and adding the language in ***bold italics***, as follows:

Amend Section 5.014, as follows:

- 5.014 Livestock or Poultry

The raising or keeping of livestock or poultry for use by residents of the premises shall be considered as an accessory use ~~that is to residential uses in selected residential districts in Amherst, and shall not be permitted in other districts.~~ All livestock and poultry raised and kept as an accessory use, ~~whether for food, as pets, or for other uses,~~ shall be raised and kept in a safe and humane manner consistent with best agricultural practices, and shall be subject to the regulations of this section and all applicable local and state laws. The accessory raising or keeping of livestock or poultry in residential districts:

5.0140 Shall be allowed by right in the Outlying Residence (**R-O**) and Low-Density Residence (**R-LD**) Districts;

5.0141 Shall be allowed ~~subject to approval of a Special Permit by the Board of Appeals,~~ in the **General Residence (R-G), Village Center Residence (R-VC), and Neighborhood Residence (R-N) and Residential Village Center Districts,** under the following provisions: ~~and not permitted elsewhere.~~

5.0141.0 Only selected domesticated fowl (hens, ducks, pigeons, and doves) and domesticated rabbits (including domesticated hares) may be raised and kept as an accessory use. On such properties, no roosters, geese, swans, turkeys, pheasants, peacocks, guinea fowl, pygmy goats, potbellied pigs, or any other livestock or poultry shall be permitted, except under the provisions of a Special Permit granted by the Zoning Board of Appeals.

5.0141.1 No more than a combined total of twelve (12) total adult domesticated fowl and rabbits shall be kept on any property, regardless of the number of dwelling units. Only reproductively mature fowl and rabbits shall be considered adults counting toward this maximum.

5.0141.2 Domesticated fowl and rabbits shall be confined with fencing or other secure enclosure, which enclosure and any associated sheltering structure shall be set at least ten (10) feet from any property lines and twenty (20) feet from residential structures on any adjacent property. Within such an enclosure, a minimum of ten (10) square feet of open yard area shall be provided per adult animal. Upon receipt of a signed affidavit from all owners of property affected by a setback, in which said owners agree to a specific modification, the Building Commissioner may vary the setback from the property lines in question for enclosures, and for sheltering structures within the height and setback limitations established for accessory structures under Section 6.1

5.0141.3 Within or attached to any such enclosure shall be provided a secure sheltering structure (e.g. coop, dovecote, ~~or~~ hutch, or shed as appropriate) of sufficient size to ensure the health and safety of the animals.

5.0142 In all cases, the accessory keeping and raising of livestock or poultry shall require registration of said livestock or poultry with the Amherst Health Department and shall permit regular inspections by the Animal Welfare Officer under applicable state and local law or regulations. All Special Permits issued under this section shall include as conditions of approval the submission of evidence of such registration.

5.0143 Any provision of Section 5.014, Livestock or Poultry, may be waived or modified under a Special Permit granted by the Zoning Board of Appeals for compelling reasons or for public health, safety, and general public welfare.

5.014.4 No provision of Section 5.014, Livestock or Poultry, shall apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3, as amended.

B. Amend Article 12, by adding the following new definitions in alphabetical order, and renumbering the remaining sections accordingly:

12. __ *Livestock and Poultry: All domesticated mammals and birds that are customarily raised and kept for agricultural purposes, including but not limited to horses, ponies, donkeys, mules, cattle, goats, llamas, alpacas, swine, sheep, rabbits, hares, and fowl, which shall be defined as including, but not limited to, chickens (hens and roosters), turkeys, pigeons, capons, ducks, geese, swans, pheasants, peacocks, guinea fowl, emus, and all wild mammals and game birds raised and kept in accordance with state and local law. Except as provided for under Section 5.014, livestock and poultry shall not include domesticated animals raised and kept as pets such as dogs, cats, rabbits various species of rodents, exotic birds, reptiles, fish, amphibians or wild animals customarily as provided for raised and kept as pets in accordance with state and local law.*

12. __ *Pets: Domesticated animals such as dogs, cats, rabbits, selected exotic mammals (pot-bellied pigs, dwarf goats, etc.), various species of rodents (rats, mice, guinea pigs, hamsters, ferrets, chinchillas, etc.), exotic birds, reptiles, fish or amphibians. The keeping of wild animals, exotic birds, fish, reptiles, and amphibians as pets is subject to the requirements of M.G.L. Ch. 131, Sections 23, 25 and 26A, as amended, and 321 CMR 2.12 and 9.01, as amended."*

Action taken on 5/25/2011

[A motion to exclude rabbits from the article failed]

ARTICLE 34. General Bylaw - Animal Welfare (Planning Board Alternative to Petition)
(Planning Board)

VOTED to amend Article II, General Regulations, Animal Welfare Bylaw, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Article II, as follows:

ANIMAL WELFARE BYLAW

(ATM – April 24, 2002 Art. 7)

Preamble

The animal welfare regulations are herein established ***are*** for the purpose of promoting the health, safety, and general welfare of the Town of Amherst and its animals. This bylaw contains standards relating to the treatment, confinement and keeping of dogs; and cat regulations, ***and regulations governing the raising or keeping of livestock and poultry on residential properties.*** The intent of this bylaw is to enhance the quality of life of citizens and animals in the Town of Amherst, and to protect the general public from damage, ***injury or illness*** that may be caused by unregulated animals.

1. Validity

This bylaw is not intended to derogate or limit any powers, rights, or obligations set forth in M.G.L. Chapter 140, but is in addition thereto.

2. License Requirement

Any owner/guardian or keeper of a dog six (6) months of age or older shall cause that dog to be licensed as required by M.G.L. Chapter 140, Section 137, commencing on April 1 of each year.

3. License Fee

The fee for every license shall be set by the Town Clerk in accordance with M.G.L. Chapter 40, Section 22F. The fee for a license for any dog that has been neutered or spayed and for which a certificate from a registered veterinarian has been presented to the Town Clerk, shall be set at no more than one-third (1/3) of the fee set by the Town Clerk in accordance with this section. The appropriate license fee, proof of rabies vaccination and neutering/spaying certificate, if any, must be presented to the Town Clerk at the time of application for a license, and, in addition, a stamped self-addressed envelope must accompany an application for a license by mail.

- A. A penalty of thirty dollars (\$30.00) shall be imposed upon all owners/guardians or keepers of dogs failing to renew licenses before June 1 of each year. This penalty shall take effect on June 1 of each year.
- B. No license fee shall be charged for specially trained service animals, provided one of the following: a doctor's prescription, a doctor's letter on office letterhead, a letter from a service animal training program, or a photo ID of said service animal is shown that such an animal is currently being/has been trained to assist an individual with a disability in accordance with M.G.L. Chapter 140, Section 139, the Americans with Disabilities Act and M.G.L. Chapter 272, Section 98a. Application shall be made for a license as provided in this bylaw, and license tags issued by the Town must be worn by any such service dog.
- C. In accordance with M.G.L. Chapter 140, Section 138, the owner/guardian or keeper of any dog six months old or older who is a new resident of the Town of Amherst shall register said dog within thirty days of taking up residence, subject to a late fine in accordance with Section 3.A.
- D. No license fee will, or part thereof shall, be refunded because of subsequent death, loss, spaying, neutering, removal from the Town of Amherst, or other disposal of the dog for which the license has been issued, nor shall any fee for a license issued to a new resident be prorated.

4. Dog Regulations

- A. It shall be a violation of this bylaw for which the owner/guardian or keeper shall be liable for a dog to:
 - i. go beyond the confines of the owner/guardian's or keeper's property unless the dog is held firmly on a leash, or is under the control of its owner/guardian or keeper, subject to restrictions of Section 5.A.
 - ii. disturb the peace or quiet or endanger the safety of any person or other animal, by biting, barking, howling, or in any other manner
 - iii. be unrestrained in violation of any order of the Select Board or of the Animal Welfare Officer
 - iv. frighten, kill, maim or otherwise injure another's fowl, livestock or domesticated animal
 - v. chase another's vehicle on any way open to public travel
 - vi. be unlicensed or untagged in violation of state law or of this bylaw.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each such violation.

- B. Any person may make a complaint to the Animal Welfare Officer regarding an alleged violation of the preceding subsection. Upon receipt of such complaint, the officer shall investigate, and may issue a written order that the dog be temporarily restrained or muzzled, as the officer deems necessary. Within twenty-one days of the issuance of such a written order, the officer shall file a report requesting a Select Board hearing. On receipt of such report and after examination of the complaint, the Select Board may take actions it deems necessary. The owner/guardian or keeper of a dog subject to such an order of the Select Board may within ten days file an appeal in district court.

- C. The Animal Welfare Officer may impound any dog determined by her/him to be involved in a violation of either of the two preceding subsections hereof. If the owner/guardian or keeper can be ascertained by some identification device on the dog, the Animal Welfare Officer shall immediately advise that person of the dog's impoundment, the procedures for reimbursing the animal holding facility, the right to redeem the dog, and licensing procedures if applicable. Any dog so impounded and unredeemed after 10 days may be disposed of as provided in Chapter 140, Section 151A of the Massachusetts General Laws.

5. Dogs Unleashed

- A. No dog shall be permitted to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas. Notwithstanding the prohibitions contained in the preceding sentence, the Conservation Commission, Leisure Service and Supplemental Education Commission, Amherst and Amherst-Pelham Regional School Committees, Select Board or Town Manager may issue regulations which may permit dogs to be unleashed on land controlled by said Commission, Committee, Board or Town Manager.

Violation of this subsection may be subject to a penalty of twenty-five dollars (\$25.00) for each such violation.

- B. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst, except as allowed in Section 5.A., may be apprehended and confined by the Animal Welfare Officer and/or a Police Officer.
- C. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst and not in the presence of its owner/guardian or keeper, except as allowed in Section 5.A., shall be apprehended and confined by the Animal Welfare Officer and/or a Police Officer. Upon impoundment of any dog in accordance with this subsection or the preceding subsection, the Animal Welfare Officer shall notify forthwith the licensed owner/guardian or keeper of said dog, giving the said owner/guardian or keeper a period of ten (10) days within which to recover the dog. For each and every dog picked up by the Animal Welfare Officer or her/his agent there shall be a pickup fee in increasing amounts for each occurrence, not to exceed fifty dollars (\$50.00). Fees, including the daily fee for the care of the dog, are payable by the owner/guardian or keeper before retrieval of the dog shall be allowed.
- D. It shall be unlawful for any person to fasten, chain or tie a dog to a stationary object for a period of time in the downtown business area so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian, as determined by the Animal Welfare Officer.

Violation of this section may be subject to a penalty of twenty-five dollars (\$25.00) for each offense.

- E. The Animal Welfare Officer of the Town of Amherst and/or any Police Officer of said town shall enforce the provisions of this section of the bylaw.

6. Prohibits Dog Waste Excretion on Public Ways

- A. It shall be unlawful for the owner/guardian or keeper having care of a dog to permit such dog, either willfully or through failure to exercise due care or control of such animal, to excrete any solid waste upon any sidewalk, public street or public park, schoolyard or school recreational field, or public recreational areas, or upon any real property other than the real property owned or controlled by such owner/guardian or keeper. No violation of this section shall be deemed to have occurred if the owner/guardian or keeper of the offending animal promptly and voluntarily removes the animal waste.

- B. Violation of this section may be subject to a penalty of fifteen dollars (\$15.00) for each offense.
- C. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

7. Cat Regulations

- A. *Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.*
- B. *The Health Director, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.*

8. Urban Livestock or Poultry Regulations

The raising or keeping of livestock or poultry for private purposes as an incidental use by the owner(s) of any single-family residential property or on any parcel under one ownership with no more than three dwellings thereon, shall be permitted and regulated under the provisions of this bylaw and other applicable local and state regulations. The provisions of this bylaw shall not apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3.

- A. *Regulations - All livestock or poultry governed by this by-law shall be raised and kept in a safe and humane manner, consistent with best agricultural practices and as required under all applicable state and local regulations. Best practice regulations for the raising and keeping of livestock or poultry in Amherst under this bylaw may be promulgated by the Health Director, following consultation with the Animal Welfare Officer and the Agricultural Commission. Said regulations shall be published and otherwise made available to members of the public and prospective registrants.*

Best practice regulations shall include, but are not limited to, the following minimum standards:

- 1) Enclosure & Shelter. Domesticated fowl or rabbits shall be confined with fencing or other enclosure sufficient to prevent access to the animals by dogs or other predators, which enclosure shall contain a minimum of ten (10) square feet of open area per adult animal. Within or attached to any such enclosure shall be provided a covered, predator-proof shelter or roosting structure (e.g. coop, dovecote, hutch, or shed, as appropriate) that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners, and at least 2 square feet per animal in size. As appropriate to the species, animals may be required to be shut into the shelter coop at night, from sunset to sunrise.*
- 2) Feed Storage. Feed shall be stored in a secure, rodent- and predator-proof container in a manner that will not attract pests.*
- 3) Waste. Accumulated waste shall be stored in a covered container and removed from the property at suitable intervals, or composted on site in a manner that will not attract pests or promote disease. No animal manure may be put into household trash. Applicants must have a compost bin set up at the time of any inspection.*
- 4) Odors & Noise. Odors from domesticated fowl and rabbits, their waste, compost, or other related substances shall not be perceptible at the property boundaries. It shall be a violation of these regulations for the owner, custodian, or keeper of any animal governed under these regulations to allow the animal (s) to be a nuisance to any neighbors, including but not limited to: noxious odors from the animals or their enclosure; and noise of a loud and persistent and habitual nature. Complaint shall be to the Health Director.*

The Animal Welfare Officer may interpret these standards and apply stricter standards, as authorized under state law.

- B. *Registration & Inspections - Prior to acquiring livestock or poultry, the property owner shall register with*

the Amherst Health Department an application describing fully and accurately their proposal to raise and keep livestock or poultry, and registering the property involved. The Health Director may require that such applications be made on forms provided by the Amherst Health Department. All registration applications shall be reviewed and approved, denied, or approved with conditions by the Health Director after consultation with the Animal Welfare Officer. Any approved registrant shall thereafter abide by the provisions of the best practice regulations established hereunder and any specific conditions imposed under the approval, and shall permit annual inspections and such other inspections of the premises as may be required by the Animal Welfare Officer under the provisions of MGL Ch. 129, Section 7.

- C. Fees - Under the provisions of MGL. Ch. 40, Section 22F, the Health Director is authorized to set reasonable fees for registration and such inspections as may be required. There shall be no reimbursement or pro-rating of application or inspection fees.*
- D. Notice – Except as provided for under Section F., as part of every application made under these regulations, an applicant shall provide a copy of a certified abutter's list obtained from the Assessor and written notice of their intent to raise or keep livestock or poultry, to be sent by the Health Department by standard mail to parties in interest as required under MGL Ch. 40A, Section 11. The notice shall fully and accurately describe the location and the proposed number and type of animals, as well as all associated structures and facilities. The notice shall also indicate that abutters have the right to file with the Health Director written comments in support of or objecting to the application, and shall indicate the deadline for submission of comments.*
- E. Administrative Hearing - Where no special permit will be required under Amherst's zoning for the keeping or raising of animals for which application is also being made under these regulations, the Health Director shall not act on said application until more than fourteen (14) working days have passed since the mailing of notice to abutters. If at the end of that period the Health Director has received written comments whereby the owners of a majority of the abutting properties have expressed objection to the application, the Director shall schedule and hold, within thirty (30) days of the deadline for receiving abutter comment, an administrative hearing for the purpose of taking public testimony regarding the proposal. The Director shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the applicant by certified mail, to abutters and parties in interest by mail, by posting with the Town Clerk, and by publication once in a newspaper of local circulation. Failure to hold an administrative hearing within the specified time period shall be considered to constitute a constructive grant of approval of the application.*
- F. Exception - No certified abutters list, nor any notice to abutters, nor an administrative hearing shall be required in those instances where a special permit will also be required under Amherst's Zoning Bylaw for the keeping or raising of animals subject to an application under this bylaw.*
- G. Decision – Following the close of an administrative hearing, the Health Director shall within five (5) working days render a decision in writing based upon compliance of the proposal with best practices and such other factors of public health and welfare as the Director may deem appropriate. In approving an application, the Health Director may, following consultation with the Animal Welfare Officer, impose any reasonable conditions, safeguards and limitations including conditions above and beyond those specified in the best practices regulations developed under this section, all as in compliance with existing zoning and other regulations.*
- H. Violations – Violation of this section may be subject to a penalty of \$25.00 for each offense, with each day the violation continues constituting a separate offense.*
- I. Enforcement – Enforcing persons shall be the Animal Welfare Officer, the Health Director, or the Health Inspector/Sanitarian.*

8 9. Conduct of Persons in Control of Animals Other than Dogs

Cattle and other animals in the public way. A person who owns or is in control of any goat, sheep, swine, horse, cow, other neat cattle, or fowl, shall not permit such animal to go at large in any of the streets, commons or parks of this town, and shall not drive or lead such animal along or upon any of the sidewalks, parks or commons of this town, except in the case of sidewalks for the purpose of immediately crossing the same. Horses used by the police department shall be excluded from this prohibition.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each violation.

8 10. Frightening Animals

No person by noise, gesture or other means shall maliciously frighten any horse or other domestic animal in any street or public place in this town.

Violation of this subsection may be subject to a penalty of twenty-five dollars (\$25.00) for each violation.

9. Cat Regulations

- ~~A. Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.~~
~~B. The Health Director, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.~~

10 11. Severability Clause

The provisions of this bylaw shall be deemed severable, so that the invalidity of any one provision of the bylaw shall not affect the validity of another provision, and if any part of this bylaw shall be adjudged unconstitutional, inconsistent with state law, or otherwise invalid, such judgment shall not affect any other valid part of this bylaw.

11 12. Non-Criminal Disposition

Any enforcing person, as set forth ~~below~~ **herein**, taking cognizance of a violation of this bylaw, may, as an alternative to initiating criminal proceedings, enforce this bylaw non-criminally pursuant to M.G.L. Chapter 40, Section 21D. For purposes of this section, the following shall be enforcing persons: Animal Welfare Officer, **Health Director**, and Police Officer. The specific penalty for violation shall be the amount established in this bylaw.

Action taken 5/25/2011.

ARTICLE 35. Petition - General Bylaw – Animal Welfare (Accessory Livestock or Poultry)
(Gerber et al)

VOTED to DISMISS [To see if the Town will amend Article II, General Regulations, Animal Welfare Bylaw, by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Article II, as follows:

ANIMAL WELFARE BYLAW

(ATM – April 24, 2002 Art. 7)

Preamble

The animal welfare regulations are herein established *are* for the purpose of promoting the health, safety, and general welfare of the Town of Amherst and its animals. This bylaw contains standards relating to the treatment, confinement and keeping of dogs; and cat regulations, *and regulations governing the raising or keeping of livestock and poultry on residential properties*. The intent of this bylaw is to enhance the quality of life of citizens and animals in the Town of Amherst, and to protect the general public from damage, *injury or illness* that may be caused by unregulated animals.

1. Validity

This bylaw is not intended to derogate or limit any powers, rights, or obligations set forth in M.G.L. Chapter 140, but is in addition thereto.

2. License Requirement

Any owner/guardian or keeper of a dog six (6) months of age or older shall cause that dog to be licensed as required by M.G.L. Chapter 140, Section 137, commencing on April 1 of each year.

3. License Fee

The fee for every license shall be set by the Town Clerk in accordance with M.G.L. Chapter 40, Section 22F. The fee for a license for any dog that has been neutered or spayed and for which a certificate from a registered veterinarian has been presented to the Town Clerk, shall be set at no more than one-third (1/3) of the fee set by the Town Clerk in accordance with this section. The appropriate license fee, proof of rabies vaccination and neutering/spaying certificate, if any, must be presented to the Town Clerk at the time of application for a license, and, in addition, a stamped self-addressed envelope must accompany an application for a license by mail.

- A. A penalty of thirty dollars (\$30.00) shall be imposed upon all owners/guardians or keepers of dogs failing to renew licenses before June 1 of each year. This penalty shall take effect on June 1 of each year.
- B. No license fee shall be charged for specially trained service animals, provided one of the following: a doctor's prescription, a doctor's letter on office letterhead, a letter from a service animal training program, or a photo ID of said service animal is shown that such an animal is currently being/has been trained to assist an individual with a disability in accordance with M.G.L. Chapter 140, Section 139, the Americans with Disabilities Act and M.G.L. Chapter 272, Section 98a. Application shall be made for a license as provided in this bylaw, and license tags issued by the Town must be worn by any such service dog.
- C. In accordance with M.G.L. Chapter 140, Section 138, the owner/guardian or keeper of any dog six months old or older who is a new resident of the Town of Amherst shall register said dog within thirty days of taking up residence, subject to a late fine in accordance with Section 3.A.
- D. No license fee will, or part thereof shall, be refunded because of subsequent death, loss, spaying, neutering, removal from the Town of Amherst, or other disposal of the dog for which the license has been issued, nor shall any fee for a license issued to a new resident be prorated.

4. Dog Regulations

- A. It shall be a violation of this bylaw for which the owner/guardian or keeper shall be liable for a dog to:
 - i. go beyond the confines of the owner/guardian's or keeper's property unless the dog is held firmly on a leash, or is under the control of its owner/guardian or keeper, subject to restrictions of Section 5.A.
 - ii. disturb the peace or quiet or endanger the safety of any person or other animal, by biting, barking, howling, or in any other manner
 - iii. be unrestrained in violation of any order of the Select Board or of the Animal Welfare Officer
 - iv. frighten, kill, maim or otherwise injure another's fowl, livestock or domesticated animal
 - v. chase another's vehicle on any way open to public travel
 - vi. be unlicensed or untagged in violation of state law or of this bylaw.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each such violation.

- B. Any person may make a complaint to the Animal Welfare Officer regarding an alleged violation of the preceding subsection. Upon receipt of such complaint, the officer shall investigate, and may issue a written order that the dog be temporarily restrained or muzzled, as the officer deems necessary. Within twenty-one days of the issuance of such a written order, the officer shall file a report requesting a Select Board hearing. On receipt of such report and after examination of the complaint, the Select Board may take actions it deems necessary. The owner/guardian or keeper of a dog subject to such an order of the Select Board may within ten days file an appeal in district court.
- C. The Animal Welfare Officer may impound any dog determined by her/him to be involved in a violation of either of the two preceding subsections hereof. If the owner/guardian or keeper can be ascertained by some identification device on the dog, the Animal Welfare Officer shall immediately advise that person of the dog's impoundment, the procedures for reimbursing the animal holding facility, the right to redeem the dog, and licensing procedures if applicable. Any dog so impounded and unredeemed after 10 days may be disposed of as provided in Chapter 140, Section 151A of the Massachusetts General Laws.

5. Dogs Unleashed

- A. No dog shall be permitted to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas. Notwithstanding the prohibitions contained in the preceding sentence, the Conservation Commission, Leisure Service and Supplemental Education Commission, Amherst and Amherst-Pelham Regional School Committees, Select Board or Town Manager may issue regulations which may permit dogs to be unleashed on land controlled by said Commission, Committee, Board or Town Manager.

Violation of this subsection may be subject to a penalty of twenty-five dollars (\$25.00) for each such violation.

- B. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst, except as allowed in Section 5.A., may be apprehended and confined by the Animal Welfare Officer and/or a Police Officer.
- C. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst and not in the presence of its owner/guardian or keeper, except as allowed in Section 5.A., shall be apprehended and confined by the Animal Welfare Officer and/or a Police Officer. Upon impoundment of any dog in accordance with this subsection or the preceding subsection, the Animal Welfare Officer shall notify forthwith the licensed owner/guardian or keeper of said dog, giving the said owner/guardian or keeper a period of ten (10) days within which to recover the dog. For each and every dog picked up by the Animal Welfare Officer or her/his agent there shall be a pickup fee in increasing amounts for each occurrence, not to exceed fifty dollars (\$50.00). Fees, including the daily fee for the care of the dog, are payable by the owner/guardian or keeper before retrieval of the dog shall be allowed.
- D. It shall be unlawful for any person to fasten, chain or tie a dog to a stationary object for a period of time in the downtown business area so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian, as determined by the Animal Welfare Officer.

Violation of this section may be subject to a penalty of twenty-five dollars (\$25.00) for each offense.

- E. The Animal Welfare Officer of the Town of Amherst and/or any Police Officer of said town shall enforce the provisions of this section of the bylaw.

6. Prohibits Dog Waste Excretion on Public Ways

- A. It shall be unlawful for the owner/guardian or keeper having care of a dog to permit such dog, either willfully or through failure to exercise due care or control of such animal, to excrete any solid waste upon any sidewalk, public street or public park, schoolyard or school recreational field, or public recreational areas, or upon any real property other than the real property owned or controlled by such owner/guardian or keeper. No violation of this section shall be deemed to have occurred if the owner/guardian or keeper of the offending animal promptly and voluntarily removes the animal waste.

Violation of this section may be subject to a penalty of fifteen dollars (\$15.00) for each offense.

This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

7. Cat Regulations

- A. *Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.*

- B. *The Health Director, Health Inspector, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.*

8. Urban Livestock or Poultry Regulations

The raising or keeping of livestock or poultry for private purposes as an incidental use on any single-family residential property or on any parcel under one ownership with no more than three dwellings thereon, shall be permitted and regulated under the provisions of this bylaw and other applicable local and state regulations. The provisions of this bylaw shall not apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3.

Regulations - All livestock or poultry governed by this by-law shall be raised and kept in a safe and humane manner, consistent with best agricultural practices and as required under all applicable state and local regulations. Best practice regulations for the raising and keeping of livestock or poultry in Amherst under this bylaw may set forth by the Health Director, following consultation with the Animal Welfare Officer and the Agricultural Commission. Said regulations shall be published and otherwise made available to members of the public and prospective registrants.

Best practice regulations shall include, but are not limited to, the following minimum standards:

Enclosure & Shelter. Domesticated fowl and rabbits shall be confined with fencing or other enclosure sufficient to prevent access to the animals by dogs or other predators, which enclosure shall contain a minimum of ten (10) square feet of open area per adult animal. Within or attached to any such enclosure shall be provided a covered, predator-proof shelter or roosting structure (e.g. coop, dovecote, or hutch, as appropriate) that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners, and at least 2 square feet per animal in size. As appropriate to the species, animals may be required to be shut into the shelter coop at night, from sunset to sunrise.

Feed Storage. Feed shall be stored in a secure, rodent- and predator-proof container in a manner that will not attract pests.

Waste. Accumulated waste shall be stored in a covered container and removed from the property at suitable intervals, or composted on site in a manner that will not attract pests or promote disease. No animal manure may be put into household trash. Applicants must have a compost bin set up at the time of any inspection.

Odors & Noise. *Odors from domesticated fowl and rabbits, their waste, compost, or other related substances shall not be perceptible at the property boundaries. It shall be a violation of these regulations for the owner, custodian, or keeper of any animal governed under these regulations to allow the animal (s) to be a nuisance to any neighbors, including but not limited to: noxious odors from the animals or their enclosure; and noise of a loud and persistent and habitual nature. Complaint shall be to the Health Director.*

The Animal Welfare Officer may apply stricter standards, as authorized under state law.

Registration & Inspections - *Prior to acquiring livestock or poultry, the property owner, or the owner of the livestock or poultry with written permission from the property owner, shall register with the Amherst Health Department an application describing fully and accurately their proposal to raise and keep livestock or poultry, and registering the property involved. The Health Director may require that such applications be made on forms provided by the Amherst Health Department. All registration applications shall be reviewed and approved, denied, or approved with conditions by the Health Director and Animal Welfare Officer. Any approved registrant shall thereafter abide by the provisions of the best practice regulations established hereunder and any specific conditions imposed under the approval, and shall permit annual inspections and such other inspections of the premises as may be required by the Animal Welfare Officer under the provisions of MGL Ch. 129, Section 7.*

Fees - *Under the provisions of MGL Ch. 40, Section 22F, the Health Director is authorized to set reasonable fees for registration and such inspections as may be required. There shall be no reimbursement or pro-rating of application or inspection fees.*

Violations – *Violation of this section may be subject to a penalty of \$25.00 for each offense, with each day the violation continues constituting a separate offense.*

Enforcement – *Enforcing persons shall be the Animal Welfare Officer, the Health Director, or the Health Inspector.*

8 9. Conduct of Persons in Control of Animals Other than Dogs

Cattle and other animals in the public way. A person who owns or is in control of any goat, sheep, swine, horse, cow, other neat cattle, or fowl, shall not permit such animal to go at large in any of the streets, commons or parks of this town, and shall not drive or lead such animal along or upon any of the sidewalks, parks or commons of this town, except in the case of sidewalks for the purpose of immediately crossing the same. Horses used by the police department shall be excluded from this prohibition.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each violation.

8 10. Frightening Animals

No person by noise, gesture or other means shall maliciously frighten any horse or other domestic animal in any street or public place in this town.

Violation of this subsection may be subject to a penalty of twenty-five dollars (\$25.00) for each violation.

9. Cat Regulations

~~A. Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.~~

~~B. The Health Director, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.~~

10 11. Severability Clause

The provisions of this bylaw shall be deemed severable, so that the invalidity of any one provision of the bylaw shall not affect the validity of another provision, and if any part of this bylaw shall be adjudged unconstitutional, inconsistent with state law, or otherwise invalid, such judgment shall not affect any other valid part of this bylaw.

11 12. Non-Criminal Disposition

Any enforcing person, as set forth ~~below~~ *herein*, taking cognizance of a violation of this bylaw, may, as an alternative to initiating criminal proceedings, enforce this bylaw non-criminally pursuant to M.G.L. Chapter 40, Section 21D. For purposes of this section, the following shall be enforcing persons: Animal Welfare Officer, ***Health Director, Health Inspector***, and Police Officer. The specific penalty for violation shall be the amount established in this bylaw.”]

Action taken 5/25/2011

The business of the warrant having been completed, the meeting voted to dissolve at 9:46 p.m. on Wednesday, May 25, 2011. 137 town meeting members were checked in.

Attest:

Sandra J. Burgess

Town Clerk